

<p style="text-align: right;">Page 46</p> <p>1 that's who it's to. It's from Marlene Chrisman.</p> <p>2 A. Um-hum.</p> <p>3 Q. Who is Jo Barker?</p> <p>4 A. Mrs. Barker is the director of elementary/middle</p> <p>5 school programs.</p> <p>6 Q. And so she would be -- well, she would be the</p> <p>7 director of all of those programs --</p> <p>8 A. The principals in the elementary and the middle</p> <p>9 schools. And also she had the -- she was managing the Sarah</p> <p>10 Reed -- the big Sarah Reed umbrella.</p> <p>11 Q. Now, in this memo -- there's one for each of</p> <p>12 R[REDACTED] and K[REDACTED]. And the memo says that, "Since they</p> <p>13 are under age 14, they are not eligible for the adolescent</p> <p>14 partial program." Do you know what program that is?</p> <p>15 A. The partial program is the mental health -- high</p> <p>16 school mental health program.</p> <p>17 Q. And she indicated that they were not eligible for</p> <p>18 that program?</p> <p>19 A. Um-hum. She did. That's what this memo says.</p> <p>20 Q. Right. And it also indicates that -- this, again,</p> <p>21 sort of points to the fact that it was Mr. Scozzie who</p> <p>22 instigated this move; is that right? "It's my understanding</p> <p>23 that Mr. Scozzie would like the girls to begin this</p> <p>24 placement as soon as possible."</p> <p>25 A. That's what she has written here. "It's my</p>	<p style="text-align: right;">Page 48</p> <p>1 "In-home, five days --"</p> <p>2 Q. Yes.</p> <p>3 A. -- then I have the note. I probably connect it</p> <p>4 with that. That's the only thing I can put that with.</p> <p>5 Q. Now, you do have a date on this one, on the</p> <p>6 discipline note.</p> <p>7 A. Um-hum.</p> <p>8 Q. That's 1/11/02.</p> <p>9 A. Yes.</p> <p>10 Q. Now, would it have been Miss Cappabianca who</p> <p>11 requested this change in placement?</p> <p>12 A. It's possible that she did.</p> <p>13 Q. Okay. And then would the -- do the parents have</p> <p>14 to consent to this placement?</p> <p>15 A. Yes, definitely. For someone to come into their</p> <p>16 home.</p> <p>17 Q. Okay. Well, this would be -- would this be</p> <p>18 considered a modification of the girls' IEP, this five-day</p> <p>19 in-home placement?</p> <p>20 A. Well, we would work on their -- the things that</p> <p>21 are in their IEP with them when that person --</p> <p>22 Q. I know that. But what I'm saying is that from the</p> <p>23 point of view of the legal requirements associated with an</p> <p>24 IEP, does this -- does this placement in their home, this</p> <p>25 five-day placement in their home, does that require a whole</p>
<p style="text-align: right;">Page 47</p> <p>1 understanding that Mr. Scozzie would like the girls to begin</p> <p>2 this placement as soon as possible."</p> <p>3 Q. So whose idea was it that the girls would be sent</p> <p>4 home for a week? Was that your idea?</p> <p>5 A. No. There has to be a request from someone. I</p> <p>6 can't recall the request; whether it came directly from</p> <p>7 Mrs. Cappabianca. Because at that time, we always put the</p> <p>8 person who is the administrator in the building dealing with</p> <p>9 students, middle school students, their names on the form.</p> <p>10 Because maybe there -- some places had more than one</p> <p>11 assistant principal working with students, so I would know</p> <p>12 where it came from.</p> <p>13 Q. Okay. So I guess that you had a meeting -- was it</p> <p>14 January 14th -- can you tell by looking at your notes,</p> <p>15 Exhibit 5, the date of your meeting with Mr. Scozzie?</p> <p>16 A. I don't know. This is -- this is my scribble from</p> <p>17 a long time ago.</p> <p>18 Q. It does say -- there's a reference to the dates</p> <p>19 January 14th through 22nd. Do you know what that refers to?</p> <p>20 A. I don't know. Let's see. Well, I do have that on</p> <p>21 this discipline note. That's the beginning of the service</p> <p>22 in-home. So maybe that's what I wrote down. If you look</p> <p>23 at -- see the discipline note, No. 3?</p> <p>24 Q. Right. Yes.</p> <p>25 A. And maybe that's my note for this -- it says,</p>	<p style="text-align: right;">Page 49</p> <p>1 new IEP --</p> <p>2 A. No.</p> <p>3 Q. -- revision?</p> <p>4 A. No, it doesn't require a revision. Just</p> <p>5 permission for us to do instruction in the home.</p> <p>6 Q. And why doesn't it require a revision?</p> <p>7 A. Because we wouldn't be changing any of the goals</p> <p>8 and objectives on the IEP.</p> <p>9 Q. But you are changing the placement.</p> <p>10 A. That's why we have documentation here. Temporary</p> <p>11 in-home, right here on this one (indicating).</p> <p>12 Q. Right. So there is a temporary in-home evaluation</p> <p>13 placement for --</p> <p>14 A. Um-hum.</p> <p>15 Q. -- K[REDACTED] There might be one for R[REDACTED]?</p> <p>16 A. I don't know.</p> <p>17 Q. Well, and I haven't presented it to you, so I</p> <p>18 might not have seen it or maybe it's not in our files. But</p> <p>19 in any event, so that's not -- the one that we have, that we</p> <p>20 have marked as Exhibit 2, is not -- doesn't have the</p> <p>21 parents' signature. Should the parents' signature be on</p> <p>22 that?</p> <p>23 A. The parent should sign it. There's a check, "I</p> <p>24 approve." I don't know if the parent forgot to sign or</p> <p>25 what. Someone can't go in unless the parent gives</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P., by and for : No. 03-390 Erie
R. P., and DENISE L., by :
and for K. L., :
Plaintiffs :

v. :

SCHOOL DISTRICT OF THE CITY :
OF ERIE, et al., :
Defendants :

Deposition of AUDREY PECORARO, taken before
and by Janis L. Ferguson, Notary Public in and for
the Commonwealth of Pennsylvania, on Thursday,
June 23, 2005, commencing at 2:16 p.m., at the
offices of Knox McLaughlin Gornall & Sennett, PC,
120 West 10th Street, Erie, Pennsylvania 16501.

For the Plaintiffs:

Edward A. Olds, Esquire
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Pittsburgh, PA 15223

For the Defendants:

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Knox McLaughlin Gornall & Sennett, PC
120 West 10th Street
Erie, PA 16501

Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

Richard P. v. School District

Audrey Pecoraro

June 23, 2005

<p style="text-align: right;">Page 22</p> <p>1 A. The times, yes.</p> <p>2 Q. The times. Okay.</p> <p>3 MR. OLDS: I have a packet of paper here. I think</p> <p>4 it's -- these are documents that have been marked</p> <p>5 as deposition exhibits in other depositions. I</p> <p>6 have one copy and an extra copy. I think mostly</p> <p>7 what we'll be doing is referring to Miss Moore's</p> <p>8 deposition, Jim. Do you have those?</p> <p>9 MR. MARNEN: Yes.</p> <p>10 Q. I was looking at -- these documents have been</p> <p>11 provided to us by the School District, and I'm going to draw</p> <p>12 your attention to some that seem to either have been</p> <p>13 prepared by you or --</p> <p>14 A. Right.</p> <p>15 Q. -- you know, you seem to be involved in. And I</p> <p>16 guess you've had a chance to review them as well, right?</p> <p>17 A. I guess, um-hum.</p> <p>18 Q. Looking at Moore Exhibit 1, there's a Document</p> <p>19 442, Bates-stamped. That's this little number down here</p> <p>20 (indicating). 442.</p> <p>21 A. Okay. That's a waiver.</p> <p>22 (Discussion held off the record.)</p> <p>23 Q. 422. And this is -- is this what you prepared?</p> <p>24 A. Yes.</p> <p>25 Q. And tell me why you prepared this document.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. That's correct.</p> <p>2 Q. And do you recall that?</p> <p>3 A. I did make a phone call to the house, and there</p> <p>4 was no answer. So somehow I had gotten the phone call for</p> <p>5 the father -- or the phone number for the father, and I did</p> <p>6 call him at his place -- on his cell phone. And he told me</p> <p>7 I could meet with the mother. So I did go -- I did talk to</p> <p>8 the mom and made arrangements to go to the house. When I</p> <p>9 did go to the house, she was sleeping, but she did get up.</p> <p>10 And she did sign the forms.</p> <p>11 Q. Okay. What I'd like to know, do you recall what</p> <p>12 forms she signed?</p> <p>13 A. It was that waiver that you saw.</p> <p>14 Q. This would be 442?</p> <p>15 A. The one that was after this -- right, 442.</p> <p>16 Q. Is that your handwriting or her handwriting?</p> <p>17 A. No, that's her handwriting.</p> <p>18 Q. But you told her what to write?</p> <p>19 A. We have a form that you copy from. And that was</p> <p>20 the form.</p> <p>21 Q. Okay. And did she sign the IEP revision review at</p> <p>22 that time as well?</p> <p>23 A. Yes. I guess the special education department</p> <p>24 wanted me to have her sign that also.</p> <p>25 Q. So Document 419, which is Moore Exhibit 1 --</p>
<p style="text-align: right;">Page 23</p> <p>1 A. As part of my role as a facilitator, if the child</p> <p>2 is receiving speech services in the regular school setting,</p> <p>3 I request those services at Sarah Reed. And that's what</p> <p>4 this was for.</p> <p>5 Q. And --</p> <p>6 A. The child was receiving speech at Strong Vincent,</p> <p>7 so we wanted those services to continue.</p> <p>8 Q. This memo is directed to Mr. Piekanski, right?</p> <p>9 A. Right. Because he's the head of the special ed.</p> <p>10 department.</p> <p>11 Q. So --</p> <p>12 A. And he handles the speech services.</p> <p>13 Q. Okay.</p> <p>14 A. Okay?</p> <p>15 Q. So when you -- you wrote, "The following student</p> <p>16 has been assigned to attend Sarah Reed program at 1020 East</p> <p>17 10th Street," and you knew that the student had been</p> <p>18 assigned to attend Sarah Reed. How did you know that when</p> <p>19 you wrote this memo?</p> <p>20 A. Well I must have had -- she must have signed it on</p> <p>21 the -- well, I sent it on the 17th. She signed it on the</p> <p>22 18th. I don't know how I know that. I guess I just knew</p> <p>23 that.</p> <p>24 Q. Okay. And you visited Mrs. P█████ is that</p> <p>25 right?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Right.</p> <p>2 Q. -- that was signed at her house?</p> <p>3 A. Yes.</p> <p>4 Q. And were there other -- do you recall whether the</p> <p>5 other people signed before or after --</p> <p>6 A. After.</p> <p>7 Q. After she signed?</p> <p>8 A. Yes. Yes.</p> <p>9 Q. And do you recognize those signatures?</p> <p>10 A. Mrs. -- or Mrs. Cappabianca.</p> <p>11 Q. Right.</p> <p>12 A. Mrs. Gray is from Strong Vincent. And I don't</p> <p>13 recognize that other signature.</p> <p>14 Q. The classroom teacher's signature?</p> <p>15 A. Right. I did not get them to sign it.</p> <p>16 Q. Okay.</p> <p>17 A. I gave this form to Mrs. Moore.</p> <p>18 Q. Okay. Now, you noticed as 443, these are -- you</p> <p>19 made some notes concerning your visit to Mrs. P█████ is</p> <p>20 that right?</p> <p>21 A. Right.</p> <p>22 Q. You wrote that, quote, "Apparently she is heavily</p> <p>23 medicated and has memory problems."</p> <p>24 A. Right.</p> <p>25 Q. Period. "Forms signed."</p>

7 (Pages 22 to 25)

Richard P. v. School District

Audrey Pecoraro

June 23, 2005

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1 A. Right.

2 Q. Describe her condition when you met with her.

3 A. She was quite alert. She told me that she had

4 memory problems, and that's why she couldn't remember I was

5 coming. All right? But when -- she was awake and talked

6 with me. She was quite alert.

7 Q. You say, "Apparently she is heavily medicated."

8 A. She told me she was medication.

9 Q. Did she tell you what kind of medication she was

10 on?

11 A. No. I didn't ask, no.

12 Q. Why did you feel that you had to note that she

13 told you she was heavily medicated?

14 A. That was probably just something that I needed to

15 write for the reason why I was kept waiting. And because

16 she told me that.

17 Q. You had her sign the IEP revision review. Did you

18 go over the contents of that document to her?

19 A. I explained what it was; that it was a review form

20 that's attached to the regular IEP. All right? Which I did

21 not have -- was not in my possession. But she must have had

22 a copy of it when she signed that; the regular IEP. This is

23 just a form that we attach, saying that the placement is

24 going to be at Sarah Reed and what -- the different types of

25 objectives, expected levels of achievement, that type of

Page 27

1 thing. I told her that that's what it was; was on this

2 paper. It was an addendum to the regular IEP.

3 Q. Did you have the Document 420, 421 -- that was

4 another document, I take it, that you had that day, Notice

5 of Recommended Educational Placement?

6 A. Right.

7 Q. Did you -- had you ever seen like an invitation to

8 an IEP --

9 A. I didn't.

10 Q. -- meeting?

11 A. I never had one signed. I never saw one.

12 Q. Do you know if there was an IEP meeting?

13 A. I really don't know, hum-um.

14 Q. Did Mrs. P. seem to understand what this IEP

15 review was about?

16 A. I assumed that she did. She didn't ask me any

17 questions about it.

18 Q. Okay.

19 A. Now, I went on the assumption that she was in

20 agreement with the placement. If I feel a parent is

21 resistant, I don't go. All right? I would put that back in

22 the hands of the supervisor. Because I don't feel it's my

23 place to force them to go.

24 Q. Okay. I can understand that. Do you recognize

25 these initials up at the top of 419? It says "RT check".

Page 28

1 Looks like RT --

2 A. I don't know what that means, no.

3 Q. And this IEP revision says, "Change from SV to

4 SRCC." Did you explain to Miss P. what SRCC meant?

5 A. I don't think I did. But I told her that the form

6 is going to be the change of placement from Strong Vincent

7 to Sarah Reed. That's why we need to have the forms done.

8 Q. Okay. I also represent K. L. Did you

9 ever meet her mother? Did you have to go visit her mother?

10 A. Her mother came to meet with me.

11 Q. And --

12 A. Is it permissible to talk about her?

13 Q. We're not going to go into the details of the

14 placement, and yes, it is. They are both Plaintiffs here.

15 We have talked about both people. K. and R. are

16 both Plaintiffs in this case, so.

17 MR. MARNEN: He's right. Don't worry about it.

18 THE WITNESS: Okay.

19 Q. Where did she come to visit you?

20 A. My office at the child study department at

21 Washington Center.

22 Q. And I guess it would be Moore Exhibit 2. I'm

23 looking into that. There's the IEP review provision that

24 contains K. L. as well. That would be Document 818.

25 A. 818.

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1 MR. MARNEN: 739 maybe?

2 (Discussion held off the record.)

3 Q. I guess there's two of those in there.

4 MR. MARNEN: Did you find it?

5 THE WITNESS: I don't know.

6 (Discussion held off the record.)

7 Q. Did she sign that in your office?

8 A. Yes.

9 Q. And was there anyone else there?

10 A. No.

11 Q. Okay. So that wasn't an IEP meeting --

12 A. No.

13 Q. -- that she came to in your office.

14 A. No.

15 Q. Did you explain to her what was going on? Do you

16 recall whether you had any conversations with her about the

17 change in her daughter's educational placement?

18 A. Yes. I explained that the services for education

19 would be provided with the Sarah Reed program.

20 Q. Right. Did she have any questions?

21 A. No, she didn't. No. Not that I recall.

22 Q. Could you keep going until you get to Moore

23 Exhibit 7. And that would be Document 847. It's a memo

24 that looks like this (indicating).

25 A. (Witness complies.) Right.

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 Q. This is a memo from Marlene Chrisman to Jo Barker.</p> <p>2 So Jo Barker is the lady you were talking about?</p> <p>3 A. Yes.</p> <p>4 Q. She's the director of elementary/middle school</p> <p>5 programs.</p> <p>6 A. Um-hum.</p> <p>7 Q. This memo is -- the subject of this memo is B.</p> <p>8 mod. referrals.</p> <p>9 A. Um-hum.</p> <p>10 Q. B. mod., does that refer to behavioral</p> <p>11 modification?</p> <p>12 A. Yes. Yes.</p> <p>13 Q. And she says, "Both girls are under the age of 14</p> <p>14 and, therefore, are not eligible for the adolescent partial</p> <p>15 program."</p> <p>16 A. Right.</p> <p>17 Q. Did you understand the different structures at</p> <p>18 Sarah Reed?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What was the -- can you explain to me</p> <p>21 the -- what it means that they are not eligible for the</p> <p>22 adolescent partial program.</p> <p>23 A. They had to be 14 years of age in order to attend</p> <p>24 that program.</p> <p>25 Q. Okay. So what program did they attend, then?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. The educational records, yes.</p> <p>2 Q. And how do you do that? How do you make sure that</p> <p>3 that happens?</p> <p>4 A. I take them there.</p> <p>5 Q. Okay. And do you recall taking them there in this</p> <p>6 case?</p> <p>7 A. I must have, yes. Yes.</p> <p>8 Q. Well, you say you must have.</p> <p>9 A. Well, otherwise Sarah Reed would, you know,</p> <p>10 contact me and tell me they need them.</p> <p>11 Q. Okay. And you would just hand-deliver the</p> <p>12 records?</p> <p>13 A. To the office, yes.</p> <p>14 Q. And --</p> <p>15 A. I now mail them. But at that time I</p> <p>16 hand-delivered them.</p> <p>17 Q. And would that just be -- would you be visiting</p> <p>18 Sarah Reed occasionally, or would you make a special trip</p> <p>19 to -- whenever there was a referral?</p> <p>20 A. Well, I try to have the information there before</p> <p>21 the intake date, so that Matt would have those records to</p> <p>22 refer to and that they would know what the grade history was</p> <p>23 of the child, what the attendance was, that type of thing.</p> <p>24 Q. Okay. Do you know whether that was the case</p> <p>25 regarding these two girls?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. The elementary behavior mod. program is what it's</p> <p>2 termed. But we also take students that are in high school</p> <p>3 under the age of 14.</p> <p>4 Q. Into what?</p> <p>5 A. The elementary program.</p> <p>6 Q. Okay.</p> <p>7 A. That's just the term that it has.</p> <p>8 Q. Okay. So regarding B. mod. referrals, does</p> <p>9 that -- does that signify anything to you?</p> <p>10 A. It's the behavior modification program, as I read</p> <p>11 it.</p> <p>12 Q. Okay.</p> <p>13 A. Right.</p> <p>14 Q. To your understanding, is that the program that</p> <p>15 these girls were referred to; the behavior modification</p> <p>16 program?</p> <p>17 A. Yes. It's also termed an alternative education</p> <p>18 program, though. It has synonymous terms.</p> <p>19 Q. Okay. Now, is it your responsibility in</p> <p>20 connection with coordinating the referrals to the Sarah Reed</p> <p>21 program, is it your responsibility to make sure that any</p> <p>22 necessary information -- educational records, for</p> <p>23 instance --</p> <p>24 A. Right.</p> <p>25 Q. -- is sent to Sarah Reed?</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Yes. Yes.</p> <p>2 Q. Okay. So what records do you remember taking to</p> <p>3 Sarah Reed?</p> <p>4 A. Well, I must have taken a copy of the report card,</p> <p>5 all right, the past grade history, which I would get off the</p> <p>6 computer, the -- any type of achievement testing that was</p> <p>7 done. Those were basically the forms that I would take.</p> <p>8 Then I would also have the schools write out a list of work,</p> <p>9 and I would take the books also from the schools over to</p> <p>10 Sarah Reed. The schools now take it themselves, but at that</p> <p>11 time I did.</p> <p>12 Q. What about the special education material?</p> <p>13 A. I don't deliver those.</p> <p>14 Q. Do you know who is responsible?</p> <p>15 A. It would be the supervisor's responsibility.</p> <p>16 Q. Okay.</p> <p>17 A. I would take a copy of the ER. At that time it</p> <p>18 was the CER.</p> <p>19 Q. What is that?</p> <p>20 A. That would be the report by the psychologist, the</p> <p>21 school psychologist.</p> <p>22 Q. Okay.</p> <p>23 A. I would take that report. But I did not take any</p> <p>24 of the special education forms.</p> <p>25 Q. In terms of referrals to Sarah Reed, would there</p>

Page 34	Page 36
<p>1 typically be an evaluation report?</p> <p>2 A. No. There didn't have to be. No.</p> <p>3 Q. But would there typically be one?</p> <p>4 A. No. No. Many of the students were not evaluated.</p> <p>5 Q. If there was one, you would take it.</p> <p>6 A. That's correct.</p> <p>7 Q. And how did you happen upon that document? Where</p> <p>8 was that document maintained in the school system's</p> <p>9 recordkeeping?</p> <p>10 A. The psychological report?</p> <p>11 Q. Yes.</p> <p>12 A. In the special education file.</p> <p>13 Q. So you would have access to the special education</p> <p>14 file?</p> <p>15 A. Yes.</p> <p>16 Q. But you wouldn't take the IEP --</p> <p>17 A. No.</p> <p>18 Q. -- to Sarah Reed.</p> <p>19 A. No.</p> <p>20 Q. Is there a reason for that?</p> <p>21 A. Because I'm not -- I'm not a certified special ed.</p> <p>22 person, all right? And the supervisor needs to decide which</p> <p>23 of those forms needs to be sent.</p> <p>24 Q. Okay. So for whatever reason, you just don't deal</p> <p>25 with that.</p>	<p>1 A. Yes, I was concerned about it.</p> <p>2 Q. And in this particular case, you don't know if</p> <p>3 there was an IEP meeting.</p> <p>4 A. I do not know. I wasn't at it, if there was,</p> <p>5 hum-um.</p> <p>6 MR. OLDS: I guess I don't have any other</p> <p>7 questions.</p> <p>8 MR. MARNEN: I have no questions.</p> <p>9 MR. OLDS: Thank you for coming. Sorry we kept</p> <p>10 you waiting, but we were a little late this</p> <p>11 morning, so.</p> <p>12</p> <p>13 (Deposition concluded at 3:03 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 35</p> <p>1 A. I don't do -- no. And the supervisors would</p> <p>2 always provide that to Sarah Reed. And if they didn't get</p> <p>3 it, they would ask for it.</p> <p>4 Q. Sarah Reed would ask the supervisors?</p> <p>5 A. The supervisors, yes.</p> <p>6 Q. Do you recall other cases when you had a parent</p> <p>7 come to you and sign IEP documents?</p> <p>8 A. Yes.</p> <p>9 Q. Was that something that you typically did?</p> <p>10 A. I was asked to do that, and I was informed I was</p> <p>11 to do that.</p> <p>12 Q. Okay. Is that -- is that -- you're not certified</p> <p>13 in special ed., though --</p> <p>14 A. No.</p> <p>15 Q. -- is that right?</p> <p>16 A. No. But according to my lawyer from our</p> <p>17 organization, you don't have to be.</p> <p>18 Q. The lawyer from what?</p> <p>19 A. PSEA.</p> <p>20 Q. PSEA?</p> <p>21 A. Um-hum.</p> <p>22 Q. So that was something that maybe you were</p> <p>23 concerned about --</p> <p>24 A. Yes.</p> <p>25 Q. -- and you talked to --</p>	

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P., by and for :
R [REDACTED] P., and DENISE L., :
by and for K [REDACTED] L., :
Plaintiffs :

v. :

Civil Action No. 03-390
Erie

SCHOOL DISTRICT OF THE CITY :
OF ERIE, PENNSYLVANIA; JANET :
WOODS, Individually and in :
her Capacity as Principal of :
Strong Vincent High School; :
and LINDA L. CAPPABIANCA, :
Individually and in her :
Capacity as Assistant :
Principal of Strong Vincent :
High School, :
Defendants :

Deposition of FRANK SCOZZIE, taken before
and by Janis L. Ferguson, Notary Public in and
for the Commonwealth of Pennsylvania, on Monday,
April 11, 2005, commencing at 3:38 p.m., at the
offices of Knox McLaughlin Gornall & Sennett, PC,
120 West 10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR
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<p style="text-align: right;">Page 10</p> <p>1 A. She told me that there was -- and, again, this is 2 a very difficult time. I'm going off a recollection here. 3 That there was a problem with two students and that it had 4 occurred off grounds. And she was very, very concerned 5 about the two students. The mental well-being. 6 In addition to that, she wanted to be aggressive 7 in dealing with everybody involved on the other team here. 8 But her immediate concern was for the personal well-being of 9 the two young ladies. And there was a sense of urgency in 10 her voice. 11 Q. But did she describe what -- what was the 12 situation that she described to you? 13 A. She said that there were allegations being made of 14 sexual improprieties that had occurred at a Laundromat which 15 was located off the school property, but very close to 16 Strong Vincent, and that she was looking into it. But in 17 the meantime, she had concerns about getting the young girls 18 some help to deal with the situation while we were 19 investigating. 20 Q. And you indicated you're going from recollection 21 here. Did you make notes about this -- 22 A. You know, I may have, but to be very honest with 23 you, I looked, and I can't find them, if I did. 24 Q. Okay. She indicated that -- we talked to 25 Miss Woods already, and she indicated that she also talked</p>	<p style="text-align: right;">Page 12</p> <p>1 were both special ed. students; is that right? 2 A. That's correct. 3 Q. So that would mean that there -- obviously, that 4 would mean there would be special education files about 5 these students. 6 A. Um-hum. 7 Q. You have to say yes or no. 8 A. Yes, I'm sorry. 9 Q. That's okay. Would those files be in the central 10 office where you're located, or at the school, or would 11 there be two files? 12 A. There would be two files. 13 Q. And did you -- did you or did anyone at your 14 behest in the central office look at the students' files? 15 A. I'm sure we did. 16 Q. Well, specifically did you look at the files? 17 A. I can't recall that. 18 Q. And so Miss Woods tells you -- gives you a call, 19 says -- what you can recall is she said that there were 20 sexual improprieties. 21 A. That's correct. 22 Q. That's what you can recall today. 23 A. Yes. 24 Q. She says she's concerned about the girls. 25 A. She states the situation, where it occurred, and</p>
<p style="text-align: right;">Page 11</p> <p>1 to Mr. Linden. 2 A. We would have -- she probably did that, and I 3 probably did that. 4 Q. Okay. And did you give her -- what instructions 5 do you recall giving her when she first contacted you? 6 A. I don't know that I gave her any. I think I 7 listened to what she said she was doing. I think I agreed 8 with that. I said that I would assist her in getting an 9 intervention that could assist with the mental well-being of 10 these -- so that the mental well-being of these two female 11 students would be well taken care of. 12 (Discussion held off the record.) 13 Q. So how many conversations do you think you had 14 with Miss Woods about what she was doing? 15 A. I would assume, knowing my style, that I probably 16 was in touch with her pretty close to daily after this 17 became apparent to me. 18 Q. And you indicated that she said that there was a 19 sexual -- allegation of sexual improprieties. Was she more 20 explicit in terms of describing what happened? 21 A. I can't recall that. I -- I deal with the issues. 22 I don't deal with the delivery. I -- I knew it was a 23 serious problem. I can't recall how she described it to me, 24 really. 25 Q. Okay. Now, what resources do you have -- these</p>	<p style="text-align: right;">Page 13</p> <p>1 then she said, I am concerned that both of these young girls 2 need help. As I recall, it was an indication to me that she 3 felt that their self-concepts were significantly damaged and 4 that there was the potential that these girls could hurt 5 themselves. And, that, I do recall. 6 Q. Now, what resources are there available in the 7 community for children who might -- whose self-concept is 8 significantly damaged? Are there community resources 9 available for that? 10 A. Oh, there are certainly a lot of community 11 resources. The District uses the program particularly at 12 Sarah Reed. There's a therapeutic program there that we 13 use. And they have the intervention and the people 14 available to work with the student, the families, tie it all 15 together, and basically to see what's going on. It's a 16 program we recommend frequently. It's a program that many 17 of the psychiatrists that work at the School District 18 recommend frequently. 19 Q. What does the program cost the school? 20 A. I think we pay them along the lines of -- it's 21 tough to say in that day and age. But we probably paid them 22 about \$45 a day to do something like that. 23 MR. MARNEN: Per student? 24 THE WITNESS: Per student. 25 A. Each program varies a little bit. There's a few</p>

<p style="text-align: right;">Page 14</p> <p>1 different programs there.</p> <p>2 Q. What programs do they have at Sarah Reed?</p> <p>3 A. They have a partial hospitalization program, they</p> <p>4 have an alternative education program, which is primarily</p> <p>5 for regular class students. They have a therapeutic</p> <p>6 program, behavior mod.-type program, which is what we would</p> <p>7 be looking at in this situation, and they do an early</p> <p>8 intervention program for us also.</p> <p>9 Q. Now, the behavior modification program, tell me</p> <p>10 what that program consists of.</p> <p>11 A. Well, it's a program where there is psychiatric</p> <p>12 help available if they need it. There are Master-level</p> <p>13 therapists that are there available. There are small class</p> <p>14 sizes. There is a family component, where they work with</p> <p>15 the families to kind of tie everything together, because</p> <p>16 many times we can solve an issue in the school, and there</p> <p>17 still remains a problem at home, and the parents need to</p> <p>18 know about that. And we need the parents to partner with</p> <p>19 us. And they have a strong component that does that.</p> <p>20 Q. Okay.</p> <p>21 A. And there is the educational component that</p> <p>22 carries on the IEP.</p> <p>23 Q. So behavior modifications, there is a psychiatric</p> <p>24 component. Master's with counseling, you said?</p> <p>25 A. There is a Master-level therapist program.</p>	<p style="text-align: right;">Page 16</p> <p>1 situations? It would depend on what the students' needs</p> <p>2 are. We try to find -- we think out of the box. I don't</p> <p>3 want to say that we're limited, but we try to find a program</p> <p>4 that meets the needs that are presented to us. And then we</p> <p>5 make that recommendation. Then a team looks at that. We</p> <p>6 put nobody anywhere, but we use as many resources as we can</p> <p>7 get our hands on.</p> <p>8 Q. Jim's already marked as Exhibit 1 a document that</p> <p>9 I'm not ready to get to yet so I'm going to mark this as</p> <p>10 Exhibit 2.</p> <p>11 (Scozzie Deposition Exhibits 1 and 2</p> <p>12 marked for identification.)</p> <p>13 MR. OLDS: And just for the record, that is</p> <p>14 Bates-stamped 398 to 427. Is that right?</p> <p>15 THE WITNESS: I'm not sure I understand what</p> <p>16 you're --</p> <p>17 MR. OLDS: No, I'm asking Jim. I'm just getting a</p> <p>18 little stipulation of counsel here.</p> <p>19 MR. MARNEN: E-398 through E-427. Is that what</p> <p>20 you said?</p> <p>21 MR. OLDS: Yes.</p> <p>22 MR. MARNEN: Except the page before E-427 doesn't</p> <p>23 have a Bates stamp on it.</p> <p>24 MR. OLDS: Let's see what that is. Maybe it's</p> <p>25 just a blank page.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Master's level therapist.</p> <p>2 A. They have several Master's level therapists.</p> <p>3 Q. And what is the partial hospitalization program?</p> <p>4 A. That's a program they wouldn't have qualified for</p> <p>5 by age, because they were not 14 years of age. But it is a</p> <p>6 program, again, that has a lot of these same therapies,</p> <p>7 intensive therapies, that are supported more clinically.</p> <p>8 The psychiatrist is more involved in the program.</p> <p>9 Q. Okay. So they weren't old enough for the partial</p> <p>10 hospitalization program.</p> <p>11 A. Correct.</p> <p>12 Q. Now, you have to -- as the director of special ed.</p> <p>13 for the Erie School District, there is certain constraints</p> <p>14 that are placed upon you in terms of where you can place</p> <p>15 kids; is that right?</p> <p>16 A. I don't know that there's constraints put on me</p> <p>17 about where I can place them. There's certainly constraints</p> <p>18 placed on about who would take them and who we have</p> <p>19 partnerships with. I guess, you know, like if I wanted to</p> <p>20 put somebody into the Western Psychiatric program down at</p> <p>21 Pittsburgh, we could recommend -- we could, you know, kind</p> <p>22 of try to do that. We are just -- we make -- we cannot</p> <p>23 place anybody anywhere. An IEP team does that.</p> <p>24 Q. Right.</p> <p>25 A. And, you know, but are there other resources and</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. MARNEN: Maybe it was just copied crooked.</p> <p>2 (Discussion held off the record.)</p> <p>3 Q. Now, I think that when I was talking about limits</p> <p>4 that might be placed on you, you have to offer an education</p> <p>5 to a child in the least-restrictive environment. Isn't that</p> <p>6 true?</p> <p>7 A. That's true.</p> <p>8 Q. And, obviously, the least-restrictive environment</p> <p>9 is the -- maybe you could help me. The first would just be</p> <p>10 the regular classroom, right?</p> <p>11 A. Right.</p> <p>12 Q. And then the next least-restrictive environment</p> <p>13 would be -- what would be the next level?</p> <p>14 A. The -- a regular classroom with intervention.</p> <p>15 Q. Okay. And then what would be the next level?</p> <p>16 A. This would be perhaps a split program; special ed.</p> <p>17 and a regular classroom.</p> <p>18 Q. In the same school, right?</p> <p>19 A. Right.</p> <p>20 Q. And then --</p> <p>21 A. Then a special ed. classroom totally.</p> <p>22 Q. And then what would be the next level?</p> <p>23 A. Well, that -- a full-time special ed. program is</p> <p>24 the most restrictive. And then -- in the building. And</p> <p>25 then a full-time special ed. program outside of the</p>

<p style="text-align: right;">Page 18</p> <p>1 building, where there is actually no capability to</p> <p>2 participate with regular programs, would be the actual least</p> <p>3 restrictive.</p> <p>4 Q. Okay. Now, Sarah Reed isn't part of the Erie</p> <p>5 School District, is it, or is it?</p> <p>6 A. It is not part of the Erie School District.</p> <p>7 Q. Okay. So a placement in Sarah Reed is a placement</p> <p>8 outside of the School District. Is that right?</p> <p>9 A. That's correct.</p> <p>10 Q. So in that continuum that we just went through,</p> <p>11 where does -- where would Sarah Reed -- would it even be in</p> <p>12 that continuum?</p> <p>13 A. Yeah. It's a restrictive placement.</p> <p>14 Q. A restrictive placement?</p> <p>15 A. Right.</p> <p>16 Q. It's below special ed. classes in the building; is</p> <p>17 that right? It's more restrictive than special ed. in the</p> <p>18 building.</p> <p>19 A. Not necessarily, because -- and I would say I</p> <p>20 misspoke. There are regular students that are participating</p> <p>21 at Sarah Reed, so there is the participation level with</p> <p>22 regular students there. When I say "regular", I'm talking</p> <p>23 about from an educational component standpoint. They are</p> <p>24 not categorized as special education on an IEP.</p> <p>25 Q. Okay. Those students are there because they have</p>	<p style="text-align: right;">Page 20</p> <p>1 regular -- with the regular education component of the Erie</p> <p>2 School District, not the special education program.</p> <p>3 Q. So certain regular education -- certain students</p> <p>4 who receive regular education from the Erie School District</p> <p>5 will go to Sarah Reed for alternative -- for an alternative</p> <p>6 education program.</p> <p>7 A. That is correct.</p> <p>8 Q. And are those students referred to Sarah Reed as a</p> <p>9 result of violating the Discipline Code?</p> <p>10 A. Can be.</p> <p>11 Q. What other reasons might they be sent to Sarah</p> <p>12 Reed?</p> <p>13 A. Unusual behavior has been exhibited. Parent comes</p> <p>14 in with a significant concern of something that's going on</p> <p>15 at home that has been corroborated by the student's teacher,</p> <p>16 and then all of a sudden unusual behaviors are occurring.</p> <p>17 Q. And this might be unusual behavior that is not</p> <p>18 necessarily a discipline problem, or would it --</p> <p>19 A. Might be both. It could be a discipline problem.</p> <p>20 It could be a discipline problem or just could be a bizarre</p> <p>21 behavior. I guess in a -- in a classroom setting, it could</p> <p>22 be perceived as a discipline problem, depending on -- I</p> <p>23 mean, there are just so many things that can occur, it's</p> <p>24 very difficult to try to be specific on this thing.</p> <p>25 But Sarah Reed basically deals with students who</p>
<p style="text-align: right;">Page 19</p> <p>1 discipline problems; is that right?</p> <p>2 A. Some are there for that.</p> <p>3 Q. We had a conversation with Miss Woods, and I'm not</p> <p>4 sure it was exactly clear, because the term "alternative</p> <p>5 education program" appears to be used in several different</p> <p>6 ways in the documents. And maybe you could tell me -- she</p> <p>7 said that if I used AEP, the initials AEP, that would</p> <p>8 signify something relative to the Erie School District. Is</p> <p>9 that --</p> <p>10 A. Well, first of all, I guess "alternative" is an</p> <p>11 overused word and probably needs to be categorized, because</p> <p>12 there are certainly different levels of alternative.</p> <p>13 What she particularly was trying to describe to</p> <p>14 you is that Erie School District partners with Perseus House</p> <p>15 to run an alternative education program. And students are</p> <p>16 sent there for a whole litany of reasons. But they are</p> <p>17 categorized as being in an AEP program.</p> <p>18 Q. Now, did Sarah Reed ever partner with Erie</p> <p>19 concerning an alternative --</p> <p>20 A. Sarah Reed has a program --</p> <p>21 Q. You have to let me finish.</p> <p>22 A. Sorry.</p> <p>23 Q. -- partner with the Erie School District</p> <p>24 concerning providing an alternative education program?</p> <p>25 A. They have a partnership of that sort with the</p>	<p style="text-align: right;">Page 21</p> <p>1 have mental health issues primarily, as far as special ed.</p> <p>2 goes. So I can be specific with that.</p> <p>3 Q. Okay. Well, part of Sarah Reed does. But then</p> <p>4 part of it also deals with students who are behavioral</p> <p>5 problems at the Erie School District, right?</p> <p>6 A. Elementary students.</p> <p>7 Q. Elementary students. Does that mean one through</p> <p>8 eight or one through six?</p> <p>9 A. One through eight.</p> <p>10 Q. So one through eight kids who have disciplinary</p> <p>11 problems in the Erie School District might be referred to</p> <p>12 Sarah Reed.</p> <p>13 A. Right.</p> <p>14 Q. And there is a contract between Sarah Reed and</p> <p>15 Erie School District for Sarah Reed to provide an</p> <p>16 alternative education program for those students.</p> <p>17 A. That is correct.</p> <p>18 Q. And then is there also contracts between Sarah</p> <p>19 Reed and the Erie School District to provide alternative</p> <p>20 education for other students?</p> <p>21 A. There is a contract with Sarah Reed to provide</p> <p>22 partial hospitalization programming and therapeutic</p> <p>23 programs, as I earlier described to you.</p> <p>24 Q. Therapeutic.</p> <p>25 A. I guess you would call -- anytime you have a</p>

<p style="text-align: right;">Page 22</p> <p>1 program where you are delivering outside of the school in</p> <p>2 another setting, I guess you would call it an alternative</p> <p>3 setting. We probably do too much of that, but that</p> <p>4 currently is something that is the way the structure exists.</p> <p>5 Q. Well, I guess that, you know, if -- the</p> <p>6 alternative education program, is that a term of art, or is</p> <p>7 that just sort of a generic term that is used to describe</p> <p>8 any placement that's placed outside of this Erie School</p> <p>9 District?</p> <p>10 A. I guess initially it was supposed to be a term of</p> <p>11 art, but it is now a generic comprehension; that if you are</p> <p>12 not going to the Erie School District, you're going to an</p> <p>13 alternative placement. And parents will say that. We have</p> <p>14 students that are going to charter schools. The families</p> <p>15 will say they are in an alternative school. I mean, an</p> <p>16 alternative to the Erie School District.</p> <p>17 (Discussion held off the record.)</p> <p>18 Q. Would you consider that a placement in -- of a</p> <p>19 special ed. student in Sarah Reed is more restrictive than a</p> <p>20 placement of special ed. student in one of the neighborhood</p> <p>21 schools on the continuum of the least restrictive --</p> <p>22 A. Well, to the external -- to an external individual</p> <p>23 from an educational standpoint, I guess the answer to that</p> <p>24 would be yes. From a capability of benefiting from the</p> <p>25 educational program, Sarah Reed generally would be, before</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Um-hum.</p> <p>2 Q. She's an Erie School District employee?</p> <p>3 A. She is.</p> <p>4 Q. And do you recall receiving this memo?</p> <p>5 A. Um-hum.</p> <p>6 Q. Okay. And this says -- this memo --</p> <p>7 MR. MARNEN: Yes or no?</p> <p>8 THE WITNESS: I apologize.</p> <p>9 MR. MARNEN: That's all right.</p> <p>10 A. Yes.</p> <p>11 Q. "The purpose of this memo is to provide</p> <p>12 information on two students who are being referred to Sarah</p> <p>13 Reed per Frank Scozzie. Both girls were involved in a</p> <p>14 recent situation at S.V. of the nature and intensity that</p> <p>15 staff, including Mr. Scozzie, feels this level of</p> <p>16 intervention is essential. Both girls are under the age of</p> <p>17 14 and, therefore, not eligible for the adolescent partial</p> <p>18 program."</p> <p>19 I take it that Miss Chrisman wrote that. To your</p> <p>20 knowledge, is that an accurate statement or an accurate</p> <p>21 description of how the girls got referred to Sarah Reed?</p> <p>22 A. Yes.</p> <p>23 Q. Then it says at the bottom, "It is my</p> <p>24 understanding that Mr. Scozzie would like the girls to begin</p> <p>25 this placement as soon as possible. Please contact Charlise</p>
<p style="text-align: right;">Page 23</p> <p>1 we place them there, the appropriate placement. Therefore,</p> <p>2 it would be the least-restrictive placement.</p> <p>3 We would not put somebody there until a team had</p> <p>4 looked at that and realized that -- from what they were</p> <p>5 capable of benefiting at that time educationally, because of</p> <p>6 whatever the reasons, that would be the least-restrictive</p> <p>7 environment for them.</p> <p>8 Q. Okay. So, now, the therapeutic program offered by</p> <p>9 Sarah Reed, is it simply a behavior modification program, or</p> <p>10 are there other components to the therapeutic program?</p> <p>11 A. There is an educational component.</p> <p>12 Q. But the therapy is provided -- it's deemed</p> <p>13 necessary because there's a behavioral issue?</p> <p>14 A. Because there is an emotional need, because there</p> <p>15 is a -- that could -- would -- depending on the situation,</p> <p>16 it could be emotional need, behavioral issue. Could be a</p> <p>17 host of reasons that the team, you know, examines.</p> <p>18 Q. Okay. I'm going to refer you to a document that</p> <p>19 was part of the documents marked Woods No. 4. It's Erie</p> <p>20 Bates stamp 446, and it's a memo dated 1/14/02 from Marlene</p> <p>21 Chrisman. You are shown as receiving a copy of this</p> <p>22 January 15th, '02 memo from -- to Jo Barker from Marlene</p> <p>23 Chrisman. And who is Jo Barker?</p> <p>24 A. Director of elementary and middle school programs.</p> <p>25 Q. Is that an Erie School program?</p>	<p style="text-align: right;">Page 25</p> <p>1 Moore or myself to assist in this process." And this is</p> <p>2 a -- the subject of this memo is B. Mod. Referral. So that</p> <p>3 must mean Behavior Modification Referrals.</p> <p>4 A. That's correct.</p> <p>5 Q. Why would Jo Barker need this information?</p> <p>6 A. As I told you before, anything we do with Sarah</p> <p>7 Reed, we do through a team.</p> <p>8 Q. Okay.</p> <p>9 A. And we just -- Jo basically is the liaison between</p> <p>10 Sarah Reed and the School District, controlling the number</p> <p>11 of students that go to the facility, so that we don't exceed</p> <p>12 a particular number. And she would have gotten it for that</p> <p>13 reason.</p> <p>14 Q. Okay. So she's keeping count of how many students</p> <p>15 go to Sarah Reed.</p> <p>16 A. Right.</p> <p>17 Q. Do you know what that number is?</p> <p>18 A. I think we probably generally in various programs</p> <p>19 have 50 -- a cap of about 50 students there.</p> <p>20 Q. And of those 50 students, how many might be in the</p> <p>21 therapeutic program? The behavior modification therapeutic</p> <p>22 program.</p> <p>23 A. I'm going to say 12. But that -- that could vary.</p> <p>24 But it's in that zone.</p> <p>25 Q. So I'm looking at the documents that have been</p>

<p style="text-align: right;">Page 26</p> <p>1 marked as Exhibit 1. And the first part of those documents</p> <p>2 are the IEP for R■■■■ P■■■■ stemming from a 7/23/01 NORA</p> <p>3 and IEP. But what I would like to do is draw your attention</p> <p>4 to the document numbered 419.</p> <p>5 A. I don't think I have that one.</p> <p>6 Q. It's in Exhibit 2.</p> <p>7 A. Okay. That, I do have it.</p> <p>8 Q. It would be 419.</p> <p>9 MR. MARNEN: Woods 2 or Scozzie 2?</p> <p>10 MR. OLDS: Scozzie 2.</p> <p>11 Q. Can you tell me what this is.</p> <p>12 A. It's a revision of the IEP.</p> <p>13 Q. And the date is 1/18/02?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Now, that, actually -- is this the</p> <p>16 indication that an IEP team met?</p> <p>17 A. It's an indication that a team met to review</p> <p>18 the -- a group met to review the IEP.</p> <p>19 Q. Okay. The memo that we had previously looked at,</p> <p>20 which was part of Woods 4 and dated 1/15/02, is an</p> <p>21 indication that you -- apparently you had decided to send</p> <p>22 the girls to Sarah Reed as of January 15th, '02. Is that</p> <p>23 right?</p> <p>24 A. I had been requested to do that. After I listened</p> <p>25 to her request and the reason for her request, I then began</p>	<p style="text-align: right;">Page 28</p> <p>1 her tells her that if the IEP team so deemed, I would see to</p> <p>2 it that there was an accommodation made by Sarah Reed. That</p> <p>3 would be my involvement to that.</p> <p>4 Q. It's not a -- but you don't -- you wouldn't make a</p> <p>5 referral of K■■■■ and R■■■■ to Sarah Reed without some</p> <p>6 kind of in-depth information, would you?</p> <p>7 A. As I recall, Jan Woods told me there were issues</p> <p>8 there that she was concerned that these young girls were</p> <p>9 going to hurt themselves, and that that was an issue which</p> <p>10 is something that I would have brought to the attention of</p> <p>11 the supervisor and said, listen, this is the reason why I</p> <p>12 want to move on this quickly.</p> <p>13 But when I get a sense of urgency -- when you deal</p> <p>14 with a principal, and they call you up, you get to know</p> <p>15 them. You get to know when their reactions are just normal</p> <p>16 and when it's abnormal. Jan Woods expressed to me</p> <p>17 significant concern about the mental health of these two</p> <p>18 young ladies in a way that caused me to take a look at -- or</p> <p>19 have the supervisor take a look at -- I can't recall at the</p> <p>20 time -- and we would have seen whether there would be a</p> <p>21 potential that might require an immediate intervention, and</p> <p>22 I think that we did do that and we did see that.</p> <p>23 And, again, there are a lot of safeguards in the</p> <p>24 special education process. If we were overreacting, the</p> <p>25 team would have looked at that and said, no, that's not</p>
<p style="text-align: right;">Page 27</p> <p>1 to move on that placement. Yes, I did.</p> <p>2 Q. Okay. So when you say "her request", you're</p> <p>3 talking about Mrs. Woods?</p> <p>4 A. That's correct.</p> <p>5 Q. But I thought I heard you say that it had to be</p> <p>6 the IEP team that made the recommendation.</p> <p>7 A. As I said, I started to move on it. That's the</p> <p>8 process, I started it. I called the supervisor, who then</p> <p>9 would gather everybody together and start getting, you know,</p> <p>10 all the paperwork done and decision-making done. All I can</p> <p>11 do is assist with the placements. If Sarah Reed were to say</p> <p>12 I don't have room or I'm going to take a longer period of</p> <p>13 time, the IEP team had to make that ultimate decision, not</p> <p>14 me.</p> <p>15 Q. So when -- going back to this January 15th,</p> <p>16 '02 memo, in which Miss Chrisman writes, "The purpose of</p> <p>17 this memo is to provide information on two students who are</p> <p>18 being referred to Sarah Reed per Frank Scozzie," is that an</p> <p>19 inaccurate statement? You weren't referring them to Sarah</p> <p>20 Reed or were you referring them to Sarah Reed?</p> <p>21 A. I was referring -- what she means by that is that</p> <p>22 I have called her and said, listen, take a look at these two</p> <p>23 kids for Sarah Reed. And the general statement might have</p> <p>24 been, well, it's mid year, there's no -- there's no room at</p> <p>25 the inn or we can't get them in right now, and my calling</p>	<p style="text-align: right;">Page 29</p> <p>1 appropriate.</p> <p>2 So when you start this process, it's not -- it's</p> <p>3 not a daring move, because I might think and Jan Woods might</p> <p>4 think, but the team might say no. So there's checks and</p> <p>5 balances built in the system.</p> <p>6 Q. Okay. Let's go back to Item No. 419 here, Page</p> <p>7 No. 419.</p> <p>8 MR. MARNEN: Scozzie 2?</p> <p>9 MR. OLDS: Yes, Scozzie 2. Bates stamp 419. This</p> <p>10 is the IEP revision review.</p> <p>11 THE WITNESS: Yes.</p> <p>12 Q. So the IEP team met here and the objective</p> <p>13 benchmark is quote, "Develop consistent patterns of</p> <p>14 appropriate behavior through a program of therapeutic</p> <p>15 support."</p> <p>16 When language is placed in the objective benchmark</p> <p>17 part of an IEP revision review document, what is the</p> <p>18 significance of that?</p> <p>19 A. Well, we want to alter some type of behavior,</p> <p>20 whether it be a person who might be spouting off</p> <p>21 belligerently, a person who threatens to harm themselves, a</p> <p>22 person who threatens to harm others. And, again, I'm being</p> <p>23 general, not specific here.</p> <p>24 Q. Right.</p> <p>25 A. But that's the kind of technique we utilize to try</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. Are there Wrap-Around programs in Erie?</p> <p>2 A. Yes, there are.</p> <p>3 Q. And are children who have Wrap-Around -- what</p> <p>4 kinds of children might have Wrap-Around services?</p> <p>5 A. Students with emotional needs. But we don't</p> <p>6 provide those Wrap-Around services. They are provided</p> <p>7 through the local agencies. And they are determined by</p> <p>8 teams external to the Erie School District and brought into</p> <p>9 the school system externally. We just have to get the</p> <p>10 people approved to work in our schools.</p> <p>11 Q. Generally, before a referral is made to an</p> <p>12 institution such as Sarah Reed for a behavior modification</p> <p>13 program, would you expect that the special ed. student would</p> <p>14 be given an opportunity in the -- inside the Erie School</p> <p>15 District in an emotional support classroom?</p> <p>16 A. An emotional support classroom isn't an option for</p> <p>17 someone who has a problem on a specific issue. The</p> <p>18 emotional support classroom is done through a process of the</p> <p>19 IEP. That the IEP team has sat down and made the</p> <p>20 recommendation, and then there are evaluations done by a</p> <p>21 psychiatrist or -- and then the recommendation is brought</p> <p>22 back to the IEP team.</p> <p>23 But a person that exhibits a problem with a</p> <p>24 specific situation or a specific time frame, we don't just</p> <p>25 take those individuals and immediately put them into an</p>	<p style="text-align: right;">Page 36</p> <p>1 decisions as to what needs to be done. And that is what I</p> <p>2 think the IEP team was attempting to accomplish there.</p> <p>3 Q. Under Item 3-A, there, description of any other</p> <p>4 options that were considered, do you find it surprising that</p> <p>5 the IEP team didn't consider any other options?</p> <p>6 A. I think that the IEP team has a great deal of</p> <p>7 respect that you go with what you know, for the Sarah Reed</p> <p>8 program. And when you have a person who is in need of</p> <p>9 intervention beyond what the Erie School District can</p> <p>10 deliver, our first thought process -- and pretty much in a</p> <p>11 situation like this, we've had a lot of success with it. So</p> <p>12 I think that's what their -- that's a fallback position, and</p> <p>13 that's what they are going to.</p> <p>14 Q. Okay. When you say "situation like this", what do</p> <p>15 you mean? What do you mean, a situation like this?</p> <p>16 A. I mean a situation where individuals -- we have</p> <p>17 been alerted to the fact that individuals are in stressful</p> <p>18 situations and could hurt themselves. This is obviously --</p> <p>19 when you deal with 13,000 students, this is not the only</p> <p>20 time this occurs, and you try to make a move as quick as you</p> <p>21 can. And the success that Sarah Reed has had in assisting</p> <p>22 in these situations has been very good.</p> <p>23 Q. It's not your testimony that every time a student</p> <p>24 either expresses a desire to hurt themselves or maybe even</p> <p>25 acts on the desire to hurt themselves, that you refer them</p>
<p style="text-align: right;">Page 35</p> <p>1 emotional support class, and we don't place anybody without</p> <p>2 recommendations and processes being followed. That would</p> <p>3 be -- if we did this every time there was a specific</p> <p>4 instance that a student exhibited a differential behavior,</p> <p>5 we would be -- every student in the District would be in an</p> <p>6 emotional support class.</p> <p>7 Q. Okay. Now, again, looking at -- this would be</p> <p>8 Exhibit 2. I want to refer your attention to Exhibit 420 --</p> <p>9 Bates stamp 420. Now, this is the Notice of Recommended</p> <p>10 Educational Placement. And do you recognize that that --</p> <p>11 recognize Charlise Moore's handwriting there?</p> <p>12 A. I can't say that I recognize that as Charlise's.</p> <p>13 It may be, but I don't know that.</p> <p>14 Q. Now, the action proposed here is Sarah Reed</p> <p>15 therapeutic program for psychological/psychiatric evaluation</p> <p>16 and possible interventions. Now, when "therapeutic program"</p> <p>17 is referred to there, do you know if that's -- is that a</p> <p>18 referral to the behavior modification program at Sarah Reed?</p> <p>19 Language is sort of important, and --</p> <p>20 A. Well, the language -- the language indicates that</p> <p>21 when the IEP team -- excuse me one second. Again, I was not</p> <p>22 a participant. I'm going to give you an assessment of what</p> <p>23 I think is happening here. They want to make sure that when</p> <p>24 Sarah Reed receives -- in this case R [REDACTED] that they are</p> <p>25 prepared to implement that component rapidly and make</p>	<p style="text-align: right;">Page 37</p> <p>1 to Sarah Reed, is it?</p> <p>2 A. No.</p> <p>3 Q. So you don't make that kind of referral in every</p> <p>4 situation where a student might either express it or even</p> <p>5 act out on that.</p> <p>6 A. We don't patently do anything. We take situation</p> <p>7 by situation.</p> <p>8 Q. Okay. Every student is different?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. This IEP revision review, apparently the</p> <p>11 parent who signed it was Shelley P [REDACTED]?</p> <p>12 A. Where are you?</p> <p>13 Q. Right here on -- this is 419.</p> <p>14 A. I'm sorry.</p> <p>15 Q. Appears to be Shelley P [REDACTED]</p> <p>16 A. Yes.</p> <p>17 Q. Would you assume that Shelley P [REDACTED] actually</p> <p>18 attended this IEP meeting, or do you think that she might</p> <p>19 have signed this at some other time?</p> <p>20 A. I wouldn't make any assumption. As I said, I was</p> <p>21 not there, so I can't say who wasn't there or who was there.</p> <p>22 She may have not been able to be there, and it may have been</p> <p>23 conveyed to her. I would prefer that she would have been</p> <p>24 there.</p> <p>25 Q. Look at Item 422. That's the next page here.</p>

<p style="text-align: right;">Page 38</p> <p>1 This is a memo from Mrs. Audrey Pecoraro, child study 2 department, to Mr. James Piekanski, supervisor of special 3 education. 4 A. Um-hum. 5 Q. Who is Audrey Pecoraro? 6 A. She is a home and school visitor. 7 Q. Okay. 8 A. For the Erie School District. 9 Q. And this is a request for speech services, and 10 it's dated January 17th, 2002. Is that right? 11 A. Yes. 12 Q. So -- and Miss Pecoraro writes on January 17th, 13 2002, that, quote, "The following student has been assigned 14 to attend the Sarah Reed program at 1020 East 10th Street," 15 and she mentions R [REDACTED] P [REDACTED]. Is that right? 16 A. Yes. 17 Q. Now, she indicates that that assignment was made 18 on January 17th, and the IEP team didn't make their -- have 19 their meeting until January 18th. Do you have any idea how 20 Miss Audrey Pecoraro knew that the IEP team was going to 21 recommend the placement at Sarah Reed program? 22 A. I don't think -- I think she made an assumption. 23 She sent that. She's not in a position of any authority, 24 and it would not be the first time that Mrs. Pecoraro had 25 jumped the gun and put something down on paper that probably</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. And that IEP has -- places her in the learning 2 support classroom. Is that right? 3 A. My knowledge of this situation, yes. I don't see 4 that, but yes. 5 Q. Yes, if you look at 399, Notice of Recommended 6 Assignment, it's appropriate grouping, learning support. 7 A. Yes. 8 Q. If you could just sort of glance through that 9 document, is there any indication in that document that 10 R [REDACTED] has problems that require emotional support in 11 addition to learning support? 12 A. No. 13 (Discussion held off the record.) 14 Q. Okay. Now, let's go back to Exhibit 1 now, which 15 I think this is the IEP that followed R [REDACTED] placement in 16 Sarah Reed. This is -- there's an evaluation report dated 17 10/28/2002. And that's Bates-stamped 349. Appears to go up 18 to 356. Is that right? 358? 19 A. 358. 20 Q. Now, what's an evaluation report? 21 A. Well, in this particular situation, they take all 22 the pertinent facts into consideration before they do the 23 enrollment or the change in placement. 24 Q. Would you have expected that prior to R [REDACTED] 25 referral to Sarah Reed from the Erie School District there,</p>
<p style="text-align: right;">Page 39</p> <p>1 didn't belong there. 2 Q. I would like you to look at -- we did mark -- do 3 you have Exhibit 2 there? Because there is a document -- I 4 mean, Exhibit 1. 5 (Discussion held off the record.) 6 Q. This is Scozzie Exhibit 1, which was marked. I'd 7 like you to look at the last page of this exhibit, which 8 is -- it's Bates-stamped out of order. It's Bates-stamped 9 E-454. 10 A. Um-hum. 11 Q. And is this an Erie School District document? Or 12 is this a Sarah Reed document? Do you know? 13 A. I don't know the answer to that question. I 14 really don't. Again, the department itself deals with these 15 documents on a daily basis. Unfortunately, with my 16 different-- I can't even make an assumption. I don't know. 17 Q. Okay. And do you recognize the handwriting on 18 this document? 19 A. I do not. 20 Q. Going back to Exhibit 2 now, which is the -- I'd 21 like to just glance at the first part of that exhibit. I 22 had marked a bunch of documents together. The IEP, I guess, 23 for R [REDACTED] P [REDACTED] that's dated -- it begins at Page 405. I 24 believe that's the IEP for her. 25 A. Okay.</p>	<p style="text-align: right;">Page 41</p> <p>1 that there would have been an evaluation report or an 2 examination by a psychologist to see if she needed the 3 behavioral modification program? 4 A. I would expect that when she is put at Sarah Reed, 5 that the evaluation team -- and, again, we're dealing with 6 people that are -- as I look at that team, Jim Gray and 7 people like Linda Cappabianca, who has special education 8 background, to put her there, they felt there was a need. 9 They knew once she got there, there would be the people that 10 would be interacting with her, to make sure that the 11 placement was, if she were to be placed there, an 12 appropriate one. If the psychologist or the psychiatrist on 13 staff there felt there would be some kind of a mistake made, 14 we would have known about it rather rapidly. 15 Q. Okay. Now, do you know who prepared this 16 evaluation report? 17 A. I do not. 18 Q. Would this have been done by an employee of the 19 Erie School District? 20 A. I would say yes, I would think -- yeah. 21 Q. Is it Rosetta Manus? Would that be it? 22 A. Rose Manus is a school psychologist, and she would 23 have been part of the development of that ER, yeah. 24 Q. And then she writes on the first page of this 25 evaluation report that, "The current educational program is</p>

11 (Pages 38 to 41)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
3 R. [REDACTED] P., BY AND FOR
4 R. [REDACTED] P., AND DENISE L., BY
5 AND FOR K. [REDACTED] A. L.,
6 Plaintiffs
7 vs
8 SCHOOL DISTRICT OF THE
9 CITY OF ERIE, PENNSYLVANIA;
10 JANET WOODS, INDIVIDUALLY
11 and in her Capacity as Principal
12 of Strong Vincent High School;
13 and LINDA L. CAPPABIANCA,
14 Individually and in her Capacity
15 as Assistant Principal of Strong
16 Vincent High School,
17 Defendants

Civil

18 Deposition of FRANK SCOZZIE, taken before and
19 by Linda K. Rogers, Commissioner of Deeds in the
20 Commonwealth of Pennsylvania and Notary Public in
21 the State of New York, on Wednesday, May 18, 2005,
22 commencing at 12:10 p.m., at the law offices of
23 Knox, McLaughlin, Gornall & Sennett, 120 West 10th
24 Street, Erie, Pennsylvania.
25

* * *

Page 1

1 For the Plaintiffs:
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3 Carolyn Russ, Esquire
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6 For the Defendants:
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Page 2

1 FRANK SCOZZIE, first having
2 been duly sworn, testified as follows:
3

4 DIRECT EXAMINATION

5 BY MR. OLDS:

6
7 Q. Mr. Scozzie, I wanted to talk to you about the
8 issue of records and the change in school district policy
9 concerning retention of records.

10 A. Okay.

11 Q. As I understand it, at some point there was a
12 change in policy concerning discipline records?

13 A. Regarding?

14 Q. Destruction of discipline records.

15 A. That very well may be true. Was that when I was
16 running the department or.

17 Q. I don't know. I guess I'm asking you. Do you
18 know if there has been -- if the Erie School District has
19 changed its policy concerning discipline records and
20 retention of discipline records?

21 A. I don't believe that I am aware of that. I think
22 we follow a certain policy. It seems to me that there was a
23 situation that we decided that certain records would be kept
24 in certain areas. And we do review what is kept under lock
25 and key, and what is kept out for daily perusal. And we

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1 do -- Dr. Tempestini, who is our child study director, does
2 control what is destroyed and what is not by following
3 policies. I would say she may have made me aware that she
4 made a change or there was a change. I can't say that it
5 was something that I'm -- that's off the top of my head.
6 That doesn't mean it didn't occur.

7 Q. Well, let me -- we marked, I guess this was marked
8 as Defendants' Exhibit C, which was middle and high school
9 discipline policy for 2001-2002, and at document Bate stamp
10 102. In the introduction it says, student discipline
11 records will remain a part of the student's permit files.
12 When a student transfers to this school district a certified
13 copy of the student's discipline record is required and
14 obtained from the school entity from which the student is
15 transferring. The same is true when a student transfers out
16 of the Erie School District. This record shall be
17 maintained as part of the student's permanent discipline
18 record and shall be made available for inspection as
19 required by law. Do you know if that policy has changed?

20 A. As I said, this policy is reviewed yearly, there
21 probably are yearly changes. Is that a major change, again,
22 that is something someone else does.

23 Q. Who might that be?

24 A. I mean, the maintenance of records are done by two
25 people. The director of special education, Jim Pacansky,

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Page 13

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Page 14

Page 16

115a

1 level of the expertise of the people that are dealing with
2 you are more attuned to mental health issues.
3 Q. Do you know whether Janet Woods had any background
4 that she could diagnose mental health problems? She's just
5 an educator, right?
6 A. She's an educator. Obviously when you work in a
7 building of that nature and you can see the differences in
8 cases, and you can certainly have a good professional
9 judgment in that sense, there's a professional staff there
10 that has some skill level.
11 Q. You're talking about Strong Vincent?
12 A. Um-hmm -- yes.
13 Q. It is fair to say that -- it is fair to say that
14 typically the children that are referred to Sarah Reed have
15 very severe behavioral problems?
16 A. Not always. There's a range of what -- I mean,
17 there are students who for some reason are in need of a
18 level of expertise that the district doesn't have the
19 ability to provide for a period of time.
20 Q. I think you mentioned something about that Sarah
21 Reed intake knew the procedures, you also made a reference
22 to their intake. What did you expect Sarah Reed's intake to
23 do.
24 A. Sarah Reed took a look at this situation and the
25 student. And when they were sitting down talking to the

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1 student and doing the assessment, they're not going to
2 say -- if they see a student doesn't belong there or there's
3 no need for their type of intervention -- there's checks and
4 balances in there, that's why I have a tremendous comfort
5 level. The staff is a very professional staff. If they
6 would have done the intake and called me back and said,
7 listen, neither of these students should be leaving Strong
8 Vincent, they belong in their main school there, you need to
9 look internally rather than externally, we would have done
10 that.
11 Q. Once these students went to Sarah Reed, did you
12 receive any information or feedback or reports from Sarah
13 Reed about their progress?
14 A. Did I personally?
15 Q. Yes.
16 A. No.
17 Q. You wouldn't expect to, that's not the way the
18 system works; is that correct?
19 A. I am not the daily practitioners that would be
20 working with students, that's not my function.
21 Q. Okay. After they were referred to Sarah Reed,
22 R [REDACTED] and K [REDACTED], were you involved at all in the
23 consideration of whether to discipline the students who
24 assaulted them?
25 A. No.

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1 Q. And that's because that would have been
2 Miss Woods' responsibility to take those steps?
3 A. It would have been Miss Woods' responsibility to
4 take those steps. If she needed assistance with that, for
5 example, she were going to refer them for expulsion then she
6 would have utilized the procedure and that would go to
7 somebody else.
8 Q. Who would an expulsion go to?
9 A. She would have to take the packet, fill it out to
10 Dr. Linden at the time, he was the assistant superintendent
11 in the office next to mine. And that was his
12 responsibility.
13 MR. MARNEN: John Linden, right? Dr. John Linden,
14 L-I-N-D-E-N?
15 THE WITNESS: Correct.
16 Q. Did you ever have any -- do you know whether that
17 impact happened or whether -- did you ever talk to
18 Mr. Linden about this situation -- Dr. Linden, excuse me.
19 A. I really can't say I recall, I certainly may have.
20 They certainly may have done that, but I do not have a
21 recollection.
22 Q. Is Dr. Linden still with the Erie School District?
23 A. He has retired.
24 Q. At that time did you have any responsibility
25 relative to the discipline policy of the school district?

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1 A. Did I have any responsibility? Depending on the
2 circumstance I could. If John Linden was out of town, if
3 the principal wasn't in, substitute principal didn't know
4 what to do, they could have called me. Was that one of my
5 job functions? Absolutely not.
6 Q. There was a -- I want to ask you your information
7 concerning some procedural issues. I don't know what I did
8 with that first page here. As you know, and we've looked at
9 them before, and I'll just refer you to Moore Deposition
10 Exhibit 1, and this pertains to R [REDACTED] P [REDACTED]. Although
11 Moore Deposition Exhibit 2, and there's similar
12 documentation pertaining to K [REDACTED] L [REDACTED].
13 A. Um-hmm.
14 Q. There was an IEP review revision, this document
15 was completed on 1/18/02 for R [REDACTED] P [REDACTED].
16 A. Okay.
17 Q. That would be Moore Exhibit 1. Would you
18 anticipate that there would be actually an IEP meeting
19 before this document was prepared and signed?
20 A. Not necessarily, could.
21 Q. Under what circumstances is it permissible not to
22 have an IEP meeting before changing the IEP?
23 A. If there really is no structural change needed or
24 any significant change, or at this moment if the teacher and
25 a parent do not determine a pressing need, I don't think

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1 they would do anything more than a revision.
2 Q. Well, but this involved the transfer of the
3 students from the Erie School District to its alternative
4 education program. Is that a structural change that would
5 require a meeting?
6 A. If you're not changing what you are going to teach
7 them, no. All they are doing is changing if I teach you
8 something in room A or B it does not much matter.
9 Q. So would that be your read of what happened here
10 that the actual IEP didn't change, only the location of the
11 educational placement changed?
12 A. At this time.
13 Q. At this time meaning 1/18/02?
14 A. (Witness moved head up and down.) Right.
15 Q. Because when you say this time, that could mean
16 this time as you and I sit here today.
17 A. At this time 1/18/02.
18 Q. Okay. You're looking at R [REDACTED] IEP review and
19 revision which was Moore Exhibit 1 the second page -- excuse
20 me, the third page of Moore Exhibit 2 was the IEP review
21 revision of K [REDACTED] L [REDACTED]
22 A. Um-hmm.
23 Q. And I have noted, I think maybe in another
24 deposition, but the language concerning the two girls is
25 identical. The measurable annual goal is, for both of them,

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1 is quote, identify appropriate solutions, interpersonal and
2 self-related problem behaviors. And the IEP review revision
3 is identical for both girls. Do you know whether these
4 professionals decided that maybe there were differences or
5 distinctions between the two girls that should have been
6 noted in this IEP revision review?
7 A. I can't speak for the people that sat on this IEP.
8 They have the ability to add to those statements there.
9 Q. What do you mean?
10 A. If they wanted to put something, write something
11 into those things, if they felt that those encompassed what
12 they need to cover and their explanation to mom she
13 understood it then this would be a document that's fine. If
14 they wanted to add something, evaluation scheduled daily,
15 weekly, hourly, they could do that. They chose not to. I
16 can't speak to why people do what they do.
17 Q. If a classroom teacher didn't sign this IEP
18 revision review, do you think that would present a problem
19 from the paperwork side of the question? I'm referring to
20 Moore Exhibit 1.
21 A. A classroom teacher didn't sign --
22 Q. Right, the IEP revision review.
23 A. I don't know what type of problem it would
24 present.
25 Q. Well, is the classroom teacher supposed to be part

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1 of the team?
2 A. Should be.
3 Q. Generally when there is an IEP meeting or a
4 meeting to review or revise an IEP, is there an invitation
5 to the IEP meeting sent to the parent, a written invitation?
6 A. There's notification.
7 Q. You don't need to have a written invitation?
8 A. No. Obviously mom in both cases was there so
9 somehow she was communicated to. Would that be a better way
10 to do it, certainly if someone said I wasn't invited and you
11 have something verifying the written request that's
12 certainly a much more expeditious way to do that.
13 Q. I can take those back now, I'm done with those.
14 There was testimony by -- and Mr. Marnen can correct me if
15 I'm mischaracterizing his testimony, because lawyers don't
16 always hear things right. In the course of the depositions
17 that we've taken, I believe there was testimony from one of
18 the former students who indicated that the assault was
19 planned by the students while they attended P.A.S.S. In
20 other words, B [REDACTED] C [REDACTED] one of the -- sort of the
21 instigator of the assault, in essence planned the assault
22 with other students while they were in the P.A.S.S. program.
23 Now, if that information came to your attention,
24 would that be a violation of the -- would you determine that
25 to be a violation of the student discipline policy?

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1 A. That's a pretty broad statement. I don't know. I
2 mean, you would have to give me a more specific. I would
3 have to know who said what to who, when, who heard it rather
4 than to say it the way you just described it. It's very
5 difficult for me to make an assessment on it.
6 Q. I appreciate that. I don't need to ask any other
7 questions about that. In terms of the school district
8 policy about -- or the practice of a principal investigating
9 an incident such as this, it's reported to the principal
10 that a number of students engaged in this kind of conduct
11 and Miss Woods has testified she had the students in her
12 office asking them questions. Is it the practice of the
13 Erie School District that the students would be asked to
14 write out statements, you know, either explaining their
15 personal knowledge or explaining what they observed?
16 A. I imagine that there was a reason she determined
17 to do that. I don't know what it would be. It's not
18 necessarily a practice, it is certainly not something that
19 would be forbidden.
20 Q. We've never seen anything, and I was just
21 wondering if, in fact, it was a practice for that to happen?
22 A. There are times we ask students to write things
23 out because of circumstances. And there are other times
24 when an investigation is going to be done and basically
25 controlled by another agency. And in this case she may have

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P., by and for :
R. P., and DENISE L., :
by and for K. L., :
Plaintiffs :

v. :

Civil Action No. 03-390
Erie

SCHOOL DISTRICT OF THE CITY :
OF ERIE, PENNSYLVANIA; JANET :
WOODS, Individually and in :
her Capacity as Principal of :
Strong Vincent High School; :
and LINDA L. CAPPABIANCA, :
Individually and in her :
Capacity as Assistant :
Principal of Strong Vincent :
High School, :
Defendants :

Deposition of VIKKI SCULLY, taken before
and by Janis L. Ferguson, Notary Public in and
for the Commonwealth of Pennsylvania, on Friday,
March 18, 2005, commencing at 1:14 p.m., at the
offices of Knox McLaughlin Gornall & Sennett, PC,
120 West 10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

<p style="text-align: right;">Page 10</p> <p>1 Q. Okay. Describe the conduct that he engaged in 2 that you remember.</p> <p>3 A. It would be stuff like he would repeat stuff that 4 they said or interrupt when they were talking or, you know, 5 you're looking at me, stop looking at me. You moved my pen. 6 Stuff like that.</p> <p>7 Q. Did you have to -- let me ask it this way: In 8 terms of maintaining order in your classroom, what tools did 9 you have as a teacher to make sure that all the students 10 were on task?</p> <p>11 A. I would separate students who I considered to be 12 distracting. I would put them closer in proximity to me so 13 I could monitor what they're doing, and I kept them very 14 busy. I had stuff to do from -- immediately when you walked 15 in, there was stuff on the board. It was called a "do now", 16 where they had to sit down and get to work. Try to reduce 17 downtime at all -- at all costs, because that's when middle 18 school students get into trouble, is when they have 19 unstructured time.</p> <p>20 I encourage the students to tell me, you know, if 21 things were going on, and then we would address it and worry 22 about stuff in the classroom. And then if the kids were 23 violating the rules, there was the discipline measures; 24 teacher detention, phone call home. And if it would 25 persist, then it would be referred to the office and the</p>	<p style="text-align: right;">Page 12</p> <p>1 what, you know, she did.</p> <p>2 Q. And do you remember B [redacted] C [redacted]?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Was she in any classes with either R [redacted] or 5 K [redacted]?</p> <p>6 A. That, I would have to look at my -- I don't 7 remember.</p> <p>8 Q. And what kind of discipline problems did B [redacted] 9 C [redacted] present?</p> <p>10 A. Defiant to authority. If she wanted to do 11 something, she would do it. If she didn't, then she 12 wouldn't.</p> <p>13 Q. And was she friends with C [redacted] B [redacted] do you 14 know?</p> <p>15 A. I don't know. I -- they interacted. I don't know 16 if I would call them friends.</p> <p>17 Q. In terms of your -- either your background, you 18 know, your educational background, your experiential 19 background, is it fair to say that learning support kids 20 might be more vulnerable than other kids, in terms of abuse 21 or harassment? Is that a fair statement, do you think?</p> <p>22 A. I don't know, because as I have gone on in my 23 career, I -- I have seen kids in the regular ed., regular 24 education students who are often targets to -- I don't think 25 so much it's, per se, because they are a learning support</p>
<p style="text-align: right;">Page 11</p> <p>1 administrators.</p> <p>2 Q. Teacher detention, what kind of -- what did that 3 imply?</p> <p>4 A. They would come after school the next day or the 5 day after, and I would either give them an assignment, or we 6 would talk about what was going on. Basically they had to 7 stay after school a half hour for -- you know, some 8 punishment was doled out during that time period.</p> <p>9 Q. And that's different from the -- we've run across 10 a term called the PASS.</p> <p>11 A. Um-hum. Program for After-School Suspension.</p> <p>12 Q. Okay. Program for After-School Suspension. So 13 the teacher suspension was a different tool?</p> <p>14 A. That was the first kind of notch on the discipline 15 belt.</p> <p>16 Q. And did you find that you were referring -- using 17 the referral system to refer G [redacted] B [redacted] to 18 Miss Cappabianca for help?</p> <p>19 A. C [redacted] -- C [redacted] was referred to the office 20 frequently, I would say.</p> <p>21 Q. Did you talk to -- when you referred G [redacted], 22 would Miss Cappabianca talk to you, or would there be 23 communications between the two of you?</p> <p>24 A. Yes. She was very open and, you know, wanted to 25 know what was going on, or would give us feedback as to</p>	<p style="text-align: right;">Page 13</p> <p>1 student. Because there's many learning support students 2 that go through school fine without ever being the target 3 or, you know, getting picked on.</p> <p>4 Q. Do you recall whether either K [redacted] or R [redacted] 5 were targets of either harassment or bullying by other 6 students?</p> <p>7 A. Not to my recollection, no. K [redacted] was 8 social -- K [redacted] had a sister at the school who she was 9 protective of. And R [redacted] was very quiet. R [redacted] was the 10 kind of student that went in the back of the room, sat 11 there, did her work, and didn't -- didn't cause much of a 12 scene. So I didn't -- you know, she was one of the quiet 13 ones.</p> <p>14 Q. Do you remember whether you ever had to refer 15 either R [redacted] or K [redacted] to Miss Cappabianca?</p> <p>16 A. R [redacted] I sent to the office -- the one time that 17 I recall is when she had walked into the room and had yelled 18 a curse word at a student, which was surprising, because I 19 had not heard R [redacted] talk like that. And I sent her over to 20 the office.</p> <p>21 I don't think I ever referred K [redacted] or R [redacted] 22 for any other reason. For discipline -- discipline for -- I 23 mean, if, you know, kids come up and say I have a problem or 24 something, I would send them to the office so they could 25 talk. But K [redacted] and R [redacted] were, in my opinion, no way</p>

4 (Pages 10 to 13)

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1 see K[REDACTED] or R[REDACTED] back in my classroom. So I didn't
 2 see them after that incident happened.
 3 Q. So once you learned about the incident, both of
 4 the girls were out of your classroom by that time.
 5 A. Um-hum.
 6 Q. Is that right?
 7 A. Yes.
 8 Q. Okay. Now, did you have any knowledge about how
 9 the girls were placed after -- I mean, what was your
 10 knowledge about how it happened that the girls no longer
 11 attended school at Strong Vincent?
 12 A. I don't have a lot of knowledge about that,
 13 because I wasn't -- I wasn't involved in that meeting. I
 14 think that's where Charlise came in and met with the
 15 parents, and it was determined that -- for the best
 16 interests of the students, that they would be going to Sarah
 17 Reed. They offer a therapeutic component that the girls
 18 were in need of, and that we, you know, don't have it.
 19 Q. Okay. We're going to take Charlise Moore's
 20 deposition, and I think that -- you have the document that's
 21 been marked as Moore's Deposition Exhibit 2.
 22 A. Um-hum.
 23 Q. The third page of that has you as the teacher for
 24 Kristina Long. Do you see up there in the right-hand upper
 25 corner?

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1 A. Um-hum.
 2 Q. Do you recall seeing this -- have you ever seen
 3 this document before?
 4 A. After the fact. But Mrs. Gray -- I must not have
 5 been in the building. Mrs. Gray is the one who --
 6 Q. Signed it?
 7 A. -- signed off on it.
 8 Q. So you are listed as the teacher, but you didn't
 9 sign the document.
 10 A. Yeah.
 11 Q. After the fact -- if you look at the document
 12 that's been marked as Moore's Deposition Exhibit 2, do you
 13 recall -- do you know if you saw any of these documents, any
 14 of this paperwork back in January of 2002?
 15 MR. MARNEN: You mean Exhibit 2?
 16 MR. OLDS: Yes.
 17 A. I don't -- I can't say that I saw it in January.
 18 I don't --
 19 Q. Do you think you might have seen it --
 20 A. Yeah, after.
 21 Q. -- sometime in 2002?
 22 A. After the fact, yeah.
 23 Q. Well, what do you mean by "after the fact"?
 24 A. Well, after she had left the -- the school.
 25 Q. Okay. And why would it be shown to you after she

Page 20

1 had left the school?
 2 A. That's probably when my copy was sent to me.
 3 Q. Okay. So you got a copy of this --
 4 A. Yes.
 5 Q. -- at some point.
 6 A. Yes.
 7 Q. Okay. And you would have received a copy -- do
 8 you know why you would have received a copy?
 9 A. Because I was the teacher of record, and I had her
 10 file.
 11 Q. Okay. And that would be K[REDACTED] file.
 12 A. Yes, K[REDACTED] file.
 13 Q. And Moore Exhibit 1, which you also have over
 14 there -- you have a copy of it?
 15 A. Um-hum.
 16 Q. Mr. Gray -- is it Ms. Gray?
 17 A. Mrs. Gray, yes.
 18 Q. Is listed as her teacher. Would you have received
 19 that -- and that involves R[REDACTED] P[REDACTED]. Would you have
 20 received any of that?
 21 A. I would not have received it, because I was not
 22 her teacher. I wouldn't have gotten a copy of that.
 23 Q. Now, so Miss Cappabianca told you that -- you
 24 learned from Miss Cappabianca that there had been an
 25 incident.

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1 A. Um-hum.
 2 Q. And the girls were no longer in your class. How
 3 did you learn -- how did you learn what happened to them
 4 afterwards? In other words, you weren't involved.
 5 A. Um-hum.
 6 Q. Who told you the steps that had been taken?
 7 A. Linda, as time went on in the investigation and as
 8 we needed to know -- because some of the other kids were
 9 students in our classes, so it would affect us.
 10 Q. So eventually she told you who the alleged
 11 assailants were as well; is that right?
 12 A. I figured the one out, because he was no longer in
 13 my class. I think his parents pulled him immediately from
 14 the school. So I put two and two together.
 15 Q. And who was that?
 16 A. C[REDACTED] B[REDACTED].
 17 Q. Okay. And do you know whether he was suspended,
 18 or did his parents pull him out?
 19 A. That, I don't know.
 20 Q. Do you know whether -- did you ever learn whether
 21 he had a history, a disciplinary history of harassing female
 22 students --
 23 A. No.
 24 Q. -- or sexually harassing?
 25 A. I never learned of anything like that.

6 (Pages 18 to 21)

Page 22

1 Q. When you received a new student like that at
 2 Strong Vincent, and they -- K [REDACTED] and R [REDACTED] would have
 3 been -- come in as seventh graders.
 4 A. Um-hum.
 5 Q. Do you know, did C [REDACTED] B [REDACTED] come in as a
 6 seventh grader that year?
 7 A. I would have to look at the records.
 8 Q. You wouldn't know.
 9 A. Yeah.
 10 Q. Is it fair to say that you're not -- you don't
 11 learn about the prior disciplinary records of students who
 12 come to you?
 13 A. We learn the academic history and any information
 14 that would be in an evaluation report. They are -- we get
 15 that information -- my understanding of it is that like
 16 discipline files from year to year cannot follow. Like you
 17 can't keep that to hold it against a student, so.
 18 Q. Okay.
 19 A. But when you get a new student, you can figure out
 20 rather quickly what their behavior is probably going to be
 21 like, so.
 22 Q. Okay. So the other students who were involved --
 23 none of the -- well, was B [REDACTED] C [REDACTED] taken out of your
 24 class after the --
 25 A. She was -- my understanding is she was prosecuted

Page 23

1 and sent away.
 2 Q. Did she continue to be in your class until that
 3 happened? Do you remember?
 4 A. Until the -- until the court case came up.
 5 Q. Okay.
 6 A. Or until the -- you know, whatever -- when they
 7 charged her. I think when she got charged, she was moved to
 8 Edmund L., if I remember correctly.
 9 Q. But C [REDACTED] B [REDACTED] it was your understanding that
 10 his parents withdrew him?
 11 A. That's my understanding, yes.
 12 Q. Okay. And then tell me what Charlise Moore's job
 13 was.
 14 A. In that situation, or what her --
 15 Q. I guess in general, and then we'll go to the
 16 specifics of that situation. She's a supervisor, right?
 17 A. She serves as the middle school life skills
 18 supervisor. She is the one who helps to translate legal --
 19 you know, the legal interpretation of the law to us to make
 20 sure that we're in line with, you know, following Federal
 21 and State regulations. She assists us if we have questions
 22 about, you know, how we make adaptations for students or --
 23 she's the main person we go to with questions that we are
 24 unable to answer.
 25 Q. And she didn't -- did she have students?

Page 24

1 A. No. She had -- she works out of the
 2 administration building. She -- she goes to all the other
 3 schools; you know, the middle -- that have seventh and
 4 eighth grade and supervises all the teachers that deal with
 5 those students.
 6 Q. Okay. And does she still have the same position
 7 now?
 8 A. Yes.
 9 Q. Now, is it fair to say that she took over after
 10 the incident in terms of -- well, is it your understanding
 11 that she took over in terms of changing the girls'
 12 placement?
 13 A. She was called in and involved in it. Because I
 14 think that's above what the teacher of record's
 15 responsibilities are.
 16 Q. What other professionals -- for instance, I take
 17 it that you probably are part of an IEP team from time to
 18 time.
 19 A. Um-hum.
 20 Q. Is that right?
 21 A. Well, we're responsible for writing the IEP, so.
 22 Q. The teachers are.
 23 A. The special education teachers.
 24 Q. Special education.
 25 A. The teacher of record.

Page 25

1 Q. Okay. And when do you write IEP for students?
 2 A. Our School District, most of them come due around
 3 the first parent conference time, which is November. But
 4 you can write an IEP at any time, rewrite it. But within --
 5 they have been to be written within a year -- a year of each
 6 one.
 7 Q. Right. Do you recall whether you wrote the first
 8 IEP for K [REDACTED]?
 9 A. I'm the teacher of record. I don't --
 10 Q. We have identified that in the last deposition.
 11 Let me -- it was part of 4 and 5. No, it was part of 3 and
 12 4. And let me just show you -- that was marked as Manus
 13 Deposition Exhibit 3 and 4. The first page is the first
 14 page of 3, and then the remainder of the IEP is marked as
 15 Exhibit 4.
 16 A. Okay.
 17 Q. And I guess my question is, after you reviewed
 18 that, if you can tell me whether you wrote it.
 19 A. Yes, I wrote -- this is the IEP that I wrote.
 20 Q. And are there different -- we noticed that
 21 K [REDACTED] IEP seemed to be a different form than R [REDACTED]
 22 Just the format. And Manus Exhibit 5 was R [REDACTED] Do you
 23 have any idea why they are different forms?
 24 A. Can you explain the differences of forms?
 25 Q. Look at, like, for instance, Page 3 of 8 on

7 (Pages 22 to 25)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 RICHARD P., by and for :
4 R. P., and DENISE L., :
5 by and for K. L., :
6 Plaintiffs :

7 v. :

8 Civil Action No. 03-390
9 Erie

10 SCHOOL DISTRICT OF THE CITY :
11 OF ERIE, PENNSYLVANIA; JANET :
12 WOODS, Individually and in :
13 her Capacity as Principal of :
14 Strong Vincent High School; :
15 and LINDA L. CAPPABIANCA, :
16 Individually and in her :
17 Capacity as Assistant :
18 Principal of Strong Vincent :
19 High School, :
20 Defendants :

21 Deposition of JANET WOODS, taken before
22 and by Janis L. Ferguson, Notary Public in and
23 for the Commonwealth of Pennsylvania, on Monday,
24 April 11, 2005, commencing at 10:00 a.m., at the
25 offices of Knox McLaughlin Gornall & Sennett, PC,
 120 West 10th Street, Erie, Pennsylvania 16501.

 Reported by Janis L. Ferguson, RPR
 Ferguson & Holdnack Reporting, Inc.

<p style="text-align: right;">Page 10</p> <p>1 A. The -- the year 2000/2003 [sic], we had -- I</p> <p>2 believe we had nine through 12. Or, excuse me, eight</p> <p>3 through 12. And then in 2003, it became just the high</p> <p>4 school, nine through 12. The students from Strong Vincent</p> <p>5 were -- that's why I said, there aren't definitive --</p> <p>6 definitive lines always change. Primarily the students in</p> <p>7 the Strong Vincent, quote, attendance area or the</p> <p>8 Emerson-Gridley attendance area, the old middle school,</p> <p>9 probably a lot of them went to Wayne or to Roosevelt in</p> <p>10 2003.</p> <p>11 Q. How many students are there altogether in the Erie</p> <p>12 School District? Within --</p> <p>13 A. Oh, probably 12,000.</p> <p>14 Q. 12,000. And when you were at Strong Vincent as a</p> <p>15 principal the last period of time, 2000 to 2003, how many</p> <p>16 students were in the high school, approximately?</p> <p>17 A. Oh, 500. In the high school, nine through 12,</p> <p>18 probably 500, I would say.</p> <p>19 Q. And approximately 200 in the middle school?</p> <p>20 A. Yes. Perhaps more, but that's generally correct.</p> <p>21 Q. And then prior -- I think you said prior to Strong</p> <p>22 Vincent, you were in the Wayne Middle School.</p> <p>23 A. Correct.</p> <p>24 Q. And that would be grades --</p> <p>25 A. That was six, seven, and eight.</p>	<p style="text-align: right;">Page 12</p> <p>1 the student assistance program, any kind of special program</p> <p>2 that went on in the building; after-school programs.</p> <p>3 Q. What was your role relative to the students in</p> <p>4 special education classes as an assistant principal at</p> <p>5 Wayne?</p> <p>6 A. Well, they were -- like any other students, they</p> <p>7 were part of the building, like any other student. Regular</p> <p>8 and special education students were part of the building.</p> <p>9 When you have a special education student, you have an</p> <p>10 Individual Educational Plan that has to be followed, so</p> <p>11 those students are different in that way, because you have a</p> <p>12 specific plan that is set forth each year and reviewed by</p> <p>13 the parents and the teachers and agreed upon.</p> <p>14 Q. Typically, is there an administrator who is</p> <p>15 involved in setting up the IEP meeting and devising the</p> <p>16 plan?</p> <p>17 A. Generally that's taken -- generally, the IEP</p> <p>18 schedule is set up by the supervisors. And there is a --</p> <p>19 each teacher is assigned -- each student is assigned a</p> <p>20 teacher of record, and the supervisor works with those</p> <p>21 teachers in the -- constructing the paperwork, and then the</p> <p>22 teachers then have to have the IEP meeting with the parent.</p> <p>23 An administrator has to sign, be present to sign.</p> <p>24 Q. The administrator is present --</p> <p>25 A. Yeah.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. And how many students were in that school?</p> <p>2 A. Probably 600.</p> <p>3 Q. When you were in Wayne, did you have an assistant</p> <p>4 principal or more than one assistant principal?</p> <p>5 A. When I was employed there in 1990, I was the only</p> <p>6 assistant principal. I was there from '90 to '92. Then</p> <p>7 '92 to '93, I was at Strong Vincent. And then I went back</p> <p>8 to Wayne after that. At times there was a second assistant</p> <p>9 principal.</p> <p>10 Q. Were you an assistant principal at Wayne?</p> <p>11 A. At Wayne, yes, that's correct.</p> <p>12 Q. Okay. And would the -- in terms of, again,</p> <p>13 demographics -- you know, classwise, racewise -- would the</p> <p>14 children attending Wayne Middle School, would it be a</p> <p>15 similar population as the children attending Strong Vincent?</p> <p>16 A. Correct.</p> <p>17 Q. And as an assistant principal at Wayne, what were</p> <p>18 your duties?</p> <p>19 A. I was in -- I was in charge of the building</p> <p>20 when -- in the principal's absence. I was responsible</p> <p>21 largely for the daily routine of the building. I was in</p> <p>22 charge of discipline of students, special programs, all</p> <p>23 school projects. Anything that a principal does.</p> <p>24 Probably the thing the principal did more of and I</p> <p>25 did less of were teacher evaluations. I was in charge of</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. There is an administrator present at those</p> <p>2 meetings?</p> <p>3 A. Yes. Been to many.</p> <p>4 Q. Pardon?</p> <p>5 A. I've been to many.</p> <p>6 Q. Administrators, are they -- is it one of your</p> <p>7 duties as an administrator to be actively involved in</p> <p>8 creating the IEP plan?</p> <p>9 A. Only if we have input. Generally that is created</p> <p>10 primarily based upon the student's educational goals. And</p> <p>11 that is done traditionally with the teacher.</p> <p>12 Q. Tell me, who was the -- when you were the</p> <p>13 principal at Strong Vincent, who was the Title IX officer?</p> <p>14 A. Well, the principal is the person that is in</p> <p>15 charge of implementing and making sure that all, you know,</p> <p>16 policies are followed in the School District. For example,</p> <p>17 the discipline handbook has all the information that</p> <p>18 students receive about Title IV. And it's our</p> <p>19 responsibility to make sure that those are followed.</p> <p>20 Q. Do you know, were you the officially designated --</p> <p>21 A. I don't know. But I'm certain I was.</p> <p>22 Q. But you don't know for certain -- you're certain</p> <p>23 that you were, but you don't really know.</p> <p>24 A. Right.</p> <p>25 Q. Right? Is that fair?</p>

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1 Mrs. L. because K. was in the hospital. But we had
2 all of the statements from all of the kids and their
3 parents. Although Mrs. L., Denise, did come and talk to
4 me. And that was helpful also, because we were able to add
5 that piece to the puzzle.

6 And by Friday morning, we had all the information
7 that we thought was credible, so that we could give it to
8 the police, and we knew the police were going to act right
9 there and right then.

10 Q. You indicated that you had statements from the
11 students. What form did those statements take?

12 A. We have students write it down, and then --

13 Q. And where are the -- have you ever seen those
14 statements since the students wrote them down?

15 A. The only one -- and, again, I know a lot of the
16 stuff ended up getting pitched after I was gone, because of
17 the change in the discipline thing about keeping notes,
18 those anecdotes. The only one I've seen in the documents
19 that you have -- that Mr. Marnen has is from, I believe,

20 A. F.

21 THE WITNESS: Is that right?

22 A. A. F. [sic].

23 Q. So the other students did statements, but they
24 were pitched.

25 A. Well, they gave -- now, the police --

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1 Q. Please. I want to know what they gave to you.
2 The other students actually wrote statements, you're saying?

3 A. They gave -- and they gave -- all of that stuff
4 went to the police.

5 Q. Okay.

6 A. All -- everything went to the police.

7 Q. Well, if the police don't have it, does that mean
8 that you didn't give it to the police? I mean, we got the
9 statement from A. F. from the police.

10 A. From the police.

11 Q. Right. So it's your testimony here today that you
12 met with the students for three days, and that each student
13 wrote a statement.

14 A. My -- every student met with the police. I'm not
15 certain that every student would have written it.

16 Q. Wait. You met with students for two days.

17 A. Correct.

18 Q. And is it your testimony that those students wrote
19 statements?

20 A. Some of those students wrote statements.

21 Q. Which students wrote statements?

22 A. I don't know. I know A. F. did.

23 Q. And where are those statements?

24 A. Well, you just stated that the police had

25 A.

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1 Q. Right. Where are the others?

2 A. I don't know. I'm not -- I don't know that every
3 student would have written a statement. We would have had
4 the information, we would have had the parent in and gone
5 over the information with the parent. And I know that all
6 information -- we repeated the whole scenario again; the
7 conversation with the police and the student there, and
8 sometimes the parent was there talking with the policeman at
9 the same time.

10 Q. Now, did you make notes as the students talked?

11 A. Probably. I generally take notes while a student
12 talks. But I don't do the kind of documenting you're doing.

13 Q. Right.

14 A. I'm more interested in ascertaining information
15 and knowing what to do with that information.

16 Q. Do you know where those notes are?

17 A. My notes would be gone.

18 Q. And who destroyed your notes?

19 A. I would have destroyed them myself.

20 Q. When?

21 A. After the police were there. I wouldn't keep that
22 information. Now --

23 Q. Go ahead.

24 A. Linda Cap had her own set of notes. I mean, you
25 know, but that's -- you know.

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1 Q. You say that this incident broke when R. had
2 an outburst in Miss Scully's class?

3 A. Right.

4 Q. Now, R. had not presented any behavioral
5 problems before that time; is that correct?

6 A. Oh, she was hardheaded. She -- R. sometimes
7 had her own -- she would -- not hardheaded. Maybe that's
8 too -- occasionally obstinate. How is that? That's not
9 hardheaded. Occasionally obstinate would be a better choice
10 of --

11 Q. She couldn't be compared to C. B., could
12 she, in terms of behavioral problems?

13 A. No. No.

14 Q. Or B. C.

15 A. No. No. They were -- they were discipline
16 problems.

17 Q. What about K. Did she present behavioral
18 problems?

19 A. No. K. and R. were pretty typical kids.
20 They were -- few problems here and there, but nothing --

21 Q. Let's mark this as Exhibit 2. I mean, this will
22 be Exhibit 1. I'm sorry.

23 (Woods Deposition Exhibit 1
24 marked for identification.)

25 Q. Have you ever seen Exhibit 1 before?

13 (Pages 46 to 49)

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1 okay, for discipline purposes or something.
 2 Q. Well, he never went anywhere.
 3 A. Right. But -- he was referred. Excuse me.
 4 When -- I'll take -- I'll take each of the girls separately.
 5 Because K[REDACTED] was in Millcreek. When a student
 6 goes to -- to Millcreek, for example, for mental health
 7 issues, it kind of kicks in another whole level of planning
 8 for the student's IEP. The main goal is to keep -- and I --
 9 the main goal is to write an IEP appropriate for that child.
 10 All right? With the parents' input and consent.
 11 When we learned that -- when we learned that
 12 K[REDACTED] was in Millcreek, or any student was in a facility
 13 like that, the student assistant person and the special
 14 ed. -- someone from downtown, probably special ed.
 15 supervisor, would try to determine with the staff, upon the
 16 recommendations of the staff of Millcreek and their doctors,
 17 where that student would be best served to meet their needs.
 18 And so at that point it was determined, apparently
 19 by Millcreek -- and we don't send them there. It doesn't
 20 happen that way. I don't say you're going to go here. That
 21 does not happen.
 22 K[REDACTED] with the input of her doctors and
 23 only -- and only with the consent and agreement of the
 24 parent, would have -- would a student be sent to -- for
 25 example, Sarah Reed has an excellent emotional support

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1 program where a student can receive the services they need
 2 and still get credit and be part of the School District.
 3 It's a program that is contracted by the Erie School
 4 District for those students. Erie has many programs around
 5 the city for different reasons. We have charter schools, we
 6 have different contracted things. So Sarah Reed is just one
 7 of a multitude of those.
 8 Q. Okay.
 9 A. Now, R[REDACTED] dad, when R[REDACTED] and Mr. P[REDACTED]
 10 came in and talked to Mr. Ruhl and myself, he had actually
 11 requested she not return, and I certainly could understand
 12 that. I felt terrible about what had happened. I was
 13 furious at B[REDACTED] and A[REDACTED] and C[REDACTED].
 14 But, anyway, R[REDACTED] didn't want to return. I
 15 certainly understood that. And I had told Mr. P[REDACTED] that
 16 we had put into motion request for any -- you know, a
 17 placement for her, if that's what he wanted anyway. We
 18 talked about Sarah Reed. And he -- he or his wife would
 19 have met to change her IEP, and she went to Sarah Reed also.
 20 We don't send kids there. I can't turn to a
 21 student and say, I'm sending you somewhere. It doesn't
 22 happen.
 23 I was interested in, more than anything, in these
 24 two girls, getting some help with this.
 25 Q. Okay. Well --

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1 A. I knew that was an option. I knew that Sarah Reed
 2 was an option for us. I wanted -- when I called downtown, I
 3 wanted to know how we could help these kids.
 4 Q. And when you called downtown, you talked to --
 5 A. I would have talked to Frank Scozzie and Charlise
 6 Moore and Jim Piekanski. I, in fact, did talk to those
 7 three individuals. Mr. Piekanski and Charlise Moore are
 8 special ed. supervisors, and --
 9 Q. How many conversations do you think you had with
 10 them over those several days?
 11 A. Well, it was over two days, and I know I probably
 12 talked to Frank Scozzie a half a dozen times. And I talked
 13 to -- I know I talked to Mr. Piekanski and Mrs. Moore in
 14 person. And I'm sure I talked to them on the phone. I
 15 would have had to talk to them a couple times.
 16 Anytime that you have a special education student,
 17 you talk many times to them, because nothing can be done
 18 without their consent. And those -- Mr. Olds, we don't
 19 make -- I don't make arrangements with Sarah Reed. That's
 20 not my -- when you talk about the responsibilities of a
 21 principal, that is not one of them.
 22 Q. Okay.
 23 A. That is not in my juris., you know. That is done
 24 in concert with someone downtown and with a parental
 25 consent.

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1 The IEP, as you know, being an attorney, the IEP
 2 is everything.
 3 Q. Right.
 4 A. The NORA, Notification of Recommended Assignment,
 5 is everything. It is everything.
 6 Q. So.
 7 (Woods Deposition Exhibits 3 and 4
 8 marked for identification.)
 9 Q. So 739 -- the exhibit would be 4.
 10 A. Okay.
 11 Q. And I'm looking at the Bates stamp --
 12 MR. MARNEN: Exhibit 3 starts with 739. Exhibit 4
 13 with 441.
 14 Q. Now, did you have anything -- well, let me just --
 15 let me start this by saying, this is a -- the first page of
 16 Exhibit 3 is an IEP revision review. Is that right?
 17 A. Right. Of K[REDACTED]?
 18 Q. Right.
 19 A. Yeah.
 20 Q. Bates-stamped 739.
 21 A. 17th? Yeah. January 17th?
 22 Q. Yes.
 23 A. Um-hum.
 24 Q. And if you go to the document that's Bates-stamped
 25 744 in there.

21 (Pages 78 to 81)

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1 R [REDACTED] were given -- their IEP was changed to reflect the
 2 placement at home?
 3 A. Yeah, traditionally -- and, again, you know what,
 4 Mr. Olds, you might want to ask Mr. Scozzie about the
 5 details of this. Because when a -- occasionally --
 6 occasionally, mostly, I don't know. A student -- it can be
 7 placed before their placement takes place in Sarah Reed,
 8 when all the paperwork gets there, there's a period of time
 9 so that the paperwork gets to the next placement. There is
 10 a temporary in-home IEP so that the student still receives
 11 homework, some kind of instruction. It's very temporary
 12 until the paperwork gets to like Sarah Reed or to another --
 13 to wherever the placement is. The in-home IEP is an interim
 14 placement before the next placement.
 15 Q. Okay. And --
 16 A. I'm not sure how long it was in-home. I said it
 17 was five days, and --
 18 Q. Have you ever seen that in any other case?
 19 A. In-home IEP?
 20 Q. Yes.
 21 A. Oh, sure. In-home IEP, um-hum. Is this yours
 22 (indicating)?
 23 Q. Yes.
 24 A. Yeah, in-home IEP is used -- again, take the kid
 25 with the broken leg. Before -- if there's a kid that has

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1 signature is here, she was at the meeting. And I think that
 2 was an inservice day. Yeah, the 18th.
 3 Q. So you didn't prepare that?
 4 A. No. No. This was prepared -- who did this? I
 5 don't know whose signature that is, where it says "classroom
 6 teacher". I can't help you with that. Mrs. Gray would have
 7 been R [REDACTED] teacher of record at Strong Vincent. I can't
 8 even tell what the letters are. You might want to ask
 9 Mr. Scozzie that. Maybe it's Charlise Moore.
 10 It might have been a classroom teacher. It could
 11 be -- I'm guessing here. It could be a classroom -- it
 12 could be someone from Sarah Reed Children's Center. Are you
 13 talking about the second signature down, Mr. Olds?
 14 Q. Right. Yeah.
 15 A. Are you talking about right there (indicating)?
 16 Q. Yeah.
 17 A. You know what, I'm guessing here, but I think
 18 that's probably someone from Sarah Reed.
 19 Q. Okay.
 20 A. Because they would have to be involved, because
 21 that's a -- I think.
 22 Q. You're saying that Sarah Reed would have to
 23 prepare the IEP.
 24 A. No, I'm saying it could be a signature from
 25 someone from Sarah Reed.

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1 some kind of physical something, and maybe their placement
 2 is going to be -- let's say the Lake Erie Rehab or
 3 something, there may be an in-home IEP or something -- there
 4 could easily -- there's -- it covers the time period so that
 5 there's no break in the education plan.
 6 Mr. Scozzie could probably talk to you about that;
 7 about the details of how long -- I don't think it ever
 8 exceeds five days. And a lot of times it could be written
 9 for five, and it ends up two or something. It depends on
 10 how long the paper trail gets here. It's always temporary.
 11 (Discussion held off the record.)
 12 Q. Now, again, referring to the document that was
 13 marked as Exhibit 1 in Miss Moore's deposition, which is --
 14 I'm just going to show it to you.
 15 A. Okay.
 16 Q. Did you participate in the preparation of that --
 17 that IEP revision?
 18 A. Top page? On the top page?
 19 Q. Yes.
 20 A. You know, I think that was a teacher inservice
 21 day.
 22 Q. 1/18/02?
 23 A. Yeah, I think so. But I would have to see a
 24 school calendar. But I think that might have been a teacher
 25 inservice day. Mrs. Cap did -- Miss Cap did the -- if her

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1 Q. Okay. So you don't recognize that signature.
 2 A. You've got to -- you've got ask somebody else that
 3 question.
 4 MR. MARNEN: For whatever it's worth, that's
 5 before the Sarah Reed intake.
 6 THE WITNESS: Right.
 7 MR. MARNEN: I doubt that it's Sarah Reed.
 8 (Discussion held off the record.)
 9 Q. So, now, just because K [REDACTED] was in Millcreek,
 10 that doesn't mean that her placement has to change, does it?
 11 A. No. They -- that decision is made by -- between
 12 the parent and Millcreek Hospital. They make educational
 13 recommendations at a discharge. They formulate what they
 14 feel is in the best interest of that student.
 15 MR. OLDS: Let me see if I have that.
 16 (Discussion held off the record.)
 17 (Recess held from 2:36 p.m. till 2:44 p.m.)
 18 Q. Were you in Strong Vincent the next year -- that
 19 would be September 2002. Were you still the principal then?
 20 A. Yes.
 21 Q. Okay. And tell me what your involvement was in
 22 the decision that R [REDACTED] and K [REDACTED] would be returned to
 23 Strong Vincent.
 24 A. That wouldn't be my decision. If they were in --
 25 where was their placement in May? That placement --

31 (Pages 118 to 121)